



**The Surety Association of America**

**ANNUAL  
STATE LEGISLATIVE REPORT  
ON  
COMMERCIAL SURETY  
SEPTEMBER 2005**

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## 2005 in Review . . .

During 2005, the Surety Association of America (SAA) received and reviewed more than 3,000 bills and actively tracked 1,200+ bills. SAA staff has been active on a number of key state legislative issues affecting fidelity and surety, as well as coordinating with the American Insurance Association (AIA), the local surety associations and the National Association of Surety Bond Producers (NASBP).

Of the multitude of commercial surety bonds, the various types of license and permit bonds were most commonly the subject of state legislation in 2005; and, if there was a controversial surety issue, it generally involved a license and permit bond. State lawmakers continue to be tugged in both directions as they seek to regulate those persons and entities that handle money of others or give financial advice to consumers and to assure that they comply with state and federal laws applicable to the financial services industry. In some cases, those previously regulated and subject to bonding requirements made efforts to reduce or repeal those bonds. In some states, the allegation was made that the required bonds are not available or affordable. From SAA's perspective, in most of these situations the state previously enacted or implemented onerous bond amounts or terms and conditions, which, if corrected, could impact the market for those bonds.

The biggest battle in this area in the 2005 state sessions was in **Maine**, where the industry fought off an attempt to eliminate the payroll processor bond requirements. H.B. 55 would have repealed the payroll processor bond, and H.B. 159 would have lowered the minimum and maximum for this bond from \$100,000 to \$500,00 to \$10,000 to \$50,000. This effort was defeated thanks to the efforts of SAA members and the lobbying efforts of AIA.

Maine, however, was the exception to legislation in this area in 2005. Rather than repealing bond requirements, states were instead looking to license and otherwise assure the compliance of persons and businesses involved in providing financial services for others. In this report, SAA members will find:

- New bond requirements in **North Dakota** and **Texas** for money transmitters;
- New bond requirements for pledge lenders in **Tennessee**;
- New bond requirements for deferred deposit lenders in **Maine** and increased bond amounts in **Nevada**;
- New bond requirements for consumer reporting agencies that verify payday loan agreements in **Illinois**;
- Increased bond requirements for lenders, loan brokers or mortgage brokers in **Indiana, Maine, Maryland, South Dakota** and **Vermont**;
- New bond requirements for mortgage brokers in **Maryland, North Carolina** and **Wyoming**, and elimination of some alternatives to bonding in **Georgia**;
- New bond requirements for debt service management firms in **Texas** and increased bond amounts in **Maryland**;
- New bond requirements for credit counseling services in **Montana** and **South Carolina**;
- New bond requirements for credit unions in **Vermont** and a move to a blanket bond in **Florida**.

Regarding pending legislation, **Pennsylvania** S.B. 829 would require loan and check providers to post a bond. **New Jersey** A.B. 2459, as originally introduced, would have required bonds for money transmitters, but the requirement has been removed in the legislative process.

SAA members interested in these new bond opportunities will need to review the new laws or increased bond amounts carefully. In some cases, the new state law requires a bond at each location at which business is conducted. In some cases, it may be unclear as to whether the maximum penal sum under the bond is cumulative. In other cases, the new law requires the bond to be in different amounts, depending on how long the person or entity has been in business. There are concerns that the bond limits could be interpreted as cumulative. In some of the above new bond enactments, as well as others contained in the state-by-state compilation of commercial surety enactments in this Report, the state may have also allowed alternate forms of security.

Another significant state action this year on license and permit bonds was **Tennessee's** new requirement for permit bonds for building, gas, mechanical, plumbing and excavation permits. A contractor with multiple trades can post one \$50,000 bond.

Finally, state lawmakers continued to address public policy concerns on the relatively new issues associated with the Canadian, Mexican and other foreign sales of prescription drugs to consumers in the United States. This was done through licensing, disclosures and other standards. Bond requirements were a part of some of this legislation. This year, **Arizona, Connecticut** and **Nevada** enacted bonding requirements for wholesale prescription drug distributors.

As is usual in the state legislative sessions, several states enacted new requirements for public official bonds for newly formed local governments or authorities. **Florida, Georgia, Indiana, Tennessee** and **Texas** had the most new laws in this area. **Arkansas, Montana** and **North Dakota** repealed the most bonding requirements. In the latter two states, however, many public official bonds are or can be provided from a state fund. **Texas** enacted a new law that allows counties with a population in excess of 800,000 to appoint an agent as the sole insurance broker to obtain all the necessary insurance coverages, including public official liability.

Finally, SAA members who do their own rate and form filings should note that **Oklahoma** repealed its deemer clause this year. The state, however, is not noted as a difficult one for rate and form filings, particularly for commercial lines. In **Florida**, H.B. 113 provides that a surety cannot use as a defense to a surety claim the fact that the principal was unlicensed.

### **Still Pending . . .**

**New York** S.B. 4061 amends the definition of surety insurance in New York law by adding three new provisions. The first will allow sureties to write bonds guarantying leases of non-residential real property and tangible personal property as long as the period of the bond does not exceed five years. The second will allow sureties to write bonds guarantying contracts of indebtedness or other monetary obligations, but the amount of all such bonds issued by the surety for a single principal cannot exceed \$10 million. Both of these additions contain restrictions to assure that the bonds are not used in connection with certain capital markets transactions, such as the sale of

securities or credit default swaps. The third change will allow surety bonds guarantying bank deposits in excess of the FDIC-insured maximum. The bill passed both Houses, and it was sent to the Governor for signature on September 9, 2005. The Governor has 10 days to sign or veto the bill.

**New York** A.B. 658/S.B. 4314 would require home improvement contractors to be licensed and bonded. If enacted, this could be a significant new bonding opportunity for SAA members, as it is estimated that between 20,000 and 50,000 contractors would have to post bonds. While the American Association of Retired Persons and other consumer groups want home contractors to be regulated, their main goal is to protect the consumer, financially and otherwise; but these groups do not necessarily support bonding. They see a construction recovery fund as a viable option from which the consumer can recover monetary losses.

### **Member Feedback is Needed!**

As always, the Surety Association of America welcomes input from its members on its services. Since this is our first Annual State Legislative Report, we encourage members to give us feedback on whether this information is useful in the time frame and format in which it is received.

# 2005 Annual Legislative Report on Commercial Surety

## Introduction

Because of the diversity of the business of its members, SAA tracks all state and federal fidelity and surety legislation. In reporting legislative developments, however, SAA has moved to reports based on the three major lines of business -- contract, commercial and fidelity. This report contains the 2005 actions on commercial surety. Interested SAA members can access the reports on contract surety and fidelity on the SAA website.

This SAA Annual State Legislative Report on Commercial Surety contains two major parts: one section contains a summary of the 2005 state legislation on commercial surety issues that are either priorities for the SAA, issues that our members have asked the SAA to track or new issues that the SAA has seen in the 2005 state legislative sessions, and the second section is a state-by-state compilation of all the 2005 state enactments relating to commercial surety. Most of the enactments deal with new bond opportunities and elimination or reduction of existing bond requirements.

Only six states are still in session in 2005: **Massachusetts, Michigan, New Jersey, Ohio, Pennsylvania** and **Wisconsin**. **Illinois** and **New York** will likely re-convene briefly this fall. SAA will update this report with a year-end edition that covers additional state actions and all 2005 federal legislative developments.

## I. Highlights of State Legislative Activity on Commercial Surety Issues

### A. Recovery Fund Legislation

SAA monitors legislation creating recovery funds for bills that would substitute such funds for surety bonds. The 2005 legislation generally created funds to permit recovery in excess of the surety bonds.

#### 1. 2005 Enactments

**Maryland** H.B.1531 increases the amount of the reserves to be held in the state's Bituminous Coal Open-Pit Mining Reclamation Fund from \$300,000 to \$750,000 to help cover bond forfeitures.

#### 2. Status of 2005 Legislation

**Alabama** H.B. 381/S.B. 257 would have created the Pre-need Funeral Consumer Protection Fund and Pre-need Regulatory Pool. (*Dead*) Before it was enacted, some vague provisions about a surety bond fund were removed from **Ohio** H.B. 66, the state budget bill. The provisions would have required the state department of education to establish and administer a self-insurance surety program for community charter schools. The fund was intended to cover surety claims not to exceed \$1 million per occurrence or \$3 million in the aggregate. The department was required to obtain a surety bond to cover claims in excess of these limits. It was unclear

whether this bond fund was intended to secure contracts entered into with the students or compliance with state laws and regulations.

## **B. Home Improvement Contract Bonds**

Several states introduced bills to license either all or specific types of home improvement contractors. Some of this legislation involved new bond requirements to assure compliance with state laws and regulations. In some cases, the bonding requirements were amended or eliminated in the legislative process or confused along the way with liability insurance. SAA reviews this legislation for statewide vs. local license requirements.

### **1. 2005 State Enactments**

**Idaho** H.B. 141 requires electrical contractors and specialty electrical contractors to provide proof of \$300,000 of liability insurance and workers compensation insurance in order to be licensed. Before being amended, **Kansas** S.B. 178 would have required home service contractors to maintain financial security or insurance. One option would have been to post a surety bond having a value of not less than 5% of the gross consideration received, less claims paid, for all service contracts issued and in force, but not less than \$25,000. The bond provisions, however, were all removed before enactment. As enacted, S.B. 178 exempts home service contractors from regulation under the insurance code. **Minnesota** S.B. 69 requires a service contractor to maintain financial assurance. One way to do this is to post a surety bond having a value of not less than 5% of the gross consideration received, less claims paid, on the sale of service contracts in force, but not less than \$25,000. **New Jersey** S.B. 167/H.B. 2052 requires home improvement contractors to be licensed and requires \$500,000 in commercial liability insurance, but no bond. **Oregon** H.B. 2669 requires all home service contractors to post a \$25,000 surety bond. Although the bond is to be executed to the State of Oregon, the new law also states that any person damaged as a result of a violation of the law shall have a right of action under the bond. The court may award costs and attorneys fees.

In related action, **Georgia** S.B. 124 changed the methods for appointments to the State Licensing Board for Residential and General Contractors and some of the licensing qualifications, but none affecting bonds.

### **2. Status of 2005 Pending Legislation**

Probably the most significant pending bill is **New York** A.B. 658/S.B. 4314, which would require home improvement contractors to be licensed and bonded. The amount of the bond would depend on whether the price of all the contractors' contracts in the preceding year were less than \$500,000, between \$500,00 and \$1 million or greater than \$1 million. Although the bill excludes New York City, it would require bonding of between 20,000 and 50,000 contractors. There is support for the bill from consumer groups and the American Association of Retired Persons, but these groups want consumer protection and have no preference between use of bonds or a recovery fund. (*Carryover*) **Georgia** H.B. 729 would require licensing for mold remediation, which includes proof of financial responsibility including acceptable credit history and bondability. The state licensing board would have to promulgate regulations with the specific requirements. (*Carryover*) **Tennessee** H.B. 1123/S.B. 822 would require persons or companies to post a permit bond when constructing a building or other structure. (*Carryover*)

**Florida** S.B. 590 would have required licensing for mold remediation and would have required evidence of bondability for a license. (*Dead*) **Idaho** H.B. 140 would have required that home service contractors furnish a \$2,000 license bond. (*Dead*) H.B. 200 would have required plumbing and specialty contractors to furnish a \$2,000 license bond. (*Dead*)

## **C. Notary Bonds**

Some states introduced bills to require education and testing of applicants before they can become notaries. Such legislation is based on models that the two national notary associations developed. The model has previously been enacted in **California**; and it may lead to fewer applicants and more disqualified applicants, which may lessen the overall numbers of notaries in the states with such laws and adversely impact the market for these public official bonds.

### **1. 2005 Enactments**

**Arkansas** S.B. 337 requires the surety bond of a notary public to be approved by the secretary of state. In a related development, **Colorado** (H.B. 1136) authorized the Secretary of State to establish a system of rules, practices, procedures and forms relating to the ability of notaries to transmit encrypted, authenticated photographs of individuals for use by motor vehicle offices, credit card companies and other entities needing authenticated photographs.

### **2. Status of 2005 Legislation**

**Alaska** H.B. 97 requires applicants for licensure as a notary to post a \$1,000 bond. (*Carryover*) **Illinois** S.B. 304 would raise the amount of the notary bond from \$5,000 to \$50,000. (*Carryover*) **Nevada** A.B. 508 would have required testing for licensure as a notary. (*Dead*) **Texas** H.B. 45/S.B. 219 would have required testing for licensure as a notary. (*Dead*)

## **D. Appeal Bonds**

Rarely are court bonds the subject of any controversy in state legislation. There have been, however, efforts in recent years to cap appeal bonds as part of an overall effort to achieve tort reform. As part of tort reform efforts several years ago, \$100 million caps were enacted, and the corporate defendants behind tort reform are now seeking to lower the cap. Bills being introduced in states without caps on appeal bonds are now generally all being drafted with a \$25 million cap. SAA supports bonding compensatory damages in their entirety and takes a neutral position on any cap on punitive damages greater than or equal to \$25 million. SAA's position is that the defendant has been adjudged liable for compensatory damages, whereas punitive damages are more speculative and a windfall for the plaintiff. More than 30 states have now enacted such legislation, and few of the existing laws or bills distinguish between compensatory and punitive damages.

### **1. 2005 Enactments**

**Missouri** H.B. 33 caps appeal bonds at \$50 million, and **North Dakota** S.B. 2273 caps appeal bonds at \$25 million. **Kansas** H.B. 2457 provides that an appeal bond must be posted for the full amount of the judgment, unless the defendant can prove, by a preponderance of the evidence, that a bond for the full amount would cause undue hardship or deny the right to appeal. In that case, the court may reduce the amount of the appeal bond to \$1 million plus 25% of everything

over \$1 million. The new law applies to all defendants except signatories to the Master Settlement Agreement. The new law also provides that nothing in it shall be construed to prevent the court from setting the appeal bond at a lower amount as required by law or for good cause.

## **2. Other 2005 Legislation**

**North Carolina** S.B. 989 would provide that an appeal bond in a medical malpractice case will be the lesser of the amount of the judgment or the appellant's medical malpractice coverage. (*Carryover*); **Rhode Island** H.B. 6198 would cap appeal bonds at \$25 million for signatories to the Master Settlement Agreement (tobacco litigation). (*Carryover*) **Oklahoma** 1554 would have capped superseded bonds on tobacco cases to the amount of the judgment or \$25 million, whichever is less. (*Dead*)

## **E. Uniform Trust Code**

The National Conference of Commissioners on Uniform State Law (NCCUSL) adopted a Uniform Trust Code in 2000 but has amended it several times since, with the last amendments coming in 2004. **Arkansas** (S.B. 336), **North Carolina** (S.B. 679), **Oregon** (S.B. 275) and **South Carolina** (S.B. 422) enacted the Uniform Trust Code in 2005, and **Virginia** enacted parts of it (S.B. 891). With these states, a total of 13 jurisdictions have enacted the Uniform Trust Code: **District of Columbia, Kansas, Maine, Missouri, Nebraska, New Hampshire, New Mexico, Tennessee, Utah and Wyoming**. The Uniform Trust Code is intended to codify existing law and practice in that the general rule in the Code is that the trust instrument governs the issue of whether the trustee must be bonded. The trend in practice in this area, however, is not to require a trustee bond. Furthermore, under the Uniform Act, the trustee must obtain a bond if the trust requires it or if the court finds that a bond is needed to protect the interests of the beneficiaries. A court may waive a bond required by the trust if the court finds it is not needed to protect the beneficiaries, and the court may specify or modify the amount of the bond. Another trend in this area is the increasing discretion given to courts to waive the bond or in ordering a bond if the trust instrument was silent. The SAA position is that there should be a presumption that the trustee must be bonded, unless the trust instrument specifically waives that requirement. If there is a presumption in favor of a bond in the law, SAA believes that the court should be required to order bonding if there is any silence in the absence of a full waiver. When the Uniform Trust Code is enacted, in whole or in part, the law of each state needs to be reviewed to determine the actual extent to which it changes the previous requirements for trustee bonds. Overall, SAA sees these legislative developments as weakening the market for fiduciary bonds.

## **F. Additional Observations on 2005**

### **1. Wholesale Prescription Drug Distributors**

Lawmakers in several states addressed the issue of prescription drugs sales through the mail from outside the United States and sought to protect local consumers by licensing, bonding and other regulation of this activity. **Arizona** (H.B. 2193), **Indiana** (H.B. 1098), **Nevada** (S.B. 37) and **New Jersey** (S.B. 1753) added new bonding requirements. Arizona, Indiana and New Jersey require a bond of at least \$100,000, but Arizona and New Jersey allow alternate security and also provide that, if the distributor is licensed in another state and has provided financial security, the

dealer is exempt from the Arizona bond requirement. Nevada requires a bond between \$25,000 and \$100,000 and exempts publicly traded corporations. The bond can be reduced after the distributor has been licensed and in business for five years, but the bond can never fall below \$5,000.

In **California**, the existing law requires a nonresident drug wholesaler to post a \$100,000 bond or equivalent security for each site to be licensed. A bill sent to the Governor (H.B. 497) would repeal the requirement for a bond for each site and would instead permit a single \$100,000 bond. **Illinois** (S.B. 1739) has carryover legislation similar to the new Arizona law that would require a \$100,000 bond or other security, which could be waived if the wholesale distributor has a comparable license and bond in another state. The bill has passed the Senate and is in committee in the House. Legislation was recently introduced in **Pennsylvania** (H.B. 1398) that would require prescription drug wholesalers to post a bond or other security of at least \$100,000. This bill is in committee.

A \$100,000 bonding requirement failed this year in **Maryland** (H.B. 835) and **Texas** (H.B. 3239). Legislation died in **Florida** (S.B. 1654) that would have required limited prescription drug veterinary wholesalers to post a \$20,000 surety bond or equivalent security.

## **2. Medical Discount Plans**

**Connecticut** (H.B. 6619), **Florida** (H.B. 1081), **Montana** (S.B. 380), **Oklahoma** (S.B. 729) and **South Dakota** (S.B. 53) enacted laws this year requiring medical discount plan organizations to post a surety bond. The Connecticut law requires \$250,000 in net worth or a \$100,000 surety bond, while the other two laws require a surety bond of at least \$35,000. The South Dakota law allows a \$20,000 bank deposit in lieu of the surety bond, and Florida allows the option of securities deposited in trust. If a bond is provided, it cannot be cancelled without written notice to the Secretary of State.

In one of its iterations, the new Montana law would have required a medical discount card supplier to post a \$500,000 surety bond or equivalent security. The new law, however, sets this amount at \$50,000. To cancel the bond, the surety must give 21 days notice to the supplier and the commissioner.

Pending legislation in **California** (H.B. 1091) would require discount health care program operators to maintain a surety bond of at least \$20,000. It remains in committee.

## **II. Looking Ahead to 2006**

The National Conference of State Legislatures (NCSL) published some surprising news early in 2005. In its first quarter report on state budgets, the NCSL reported that, while many states are still treading water in trying to keep costs within expected revenues, the states also had made progress in eliminating the large budget deficits that have plagued them in recent years. In April, 34 states collected more tax dollars than projected. The increase in revenues, combined with deep cuts in state spending, has improved the overall state financial picture. The NCSL confirmed at its Annual Meeting in August that states collectively have slashed \$235 billion in spending since 2001. By its August meeting, the NCSL reported that no state would end fiscal

2005 with a deficit. States had an aggregate balance of \$37.8 billion, with most states have a 7% balance. **Maryland**, for example, reported a \$1 billion budget surplus due to cuts in spending and increased revenues. This is considerable improvement compared to 2004, when ten states had new gaps after the fiscal year began and 31 states had that problem in 2003. Yet, 31 states in 2005 are projecting spending overruns in some portion of the budget, usually for education, Medicaid and other health care costs.

The state budget picture is by no means rosy, but it has turned the corner. The cuts that the states have made over the past several years are now generating pressure to restore state funding in a few states, including public construction. **New Jersey**, for example, just approved a \$27.9 billion budget for 2006, the second largest in state history, not long after being listed as one of the states with the biggest budget deficits. **Connecticut, Maryland, New York** and **Ohio** are all using 2005 “windfalls” to restore funds to education and health programs and in grants to cities and towns. Other states are returning excess funds to the taxpayers. **Nevada**, for example, will return \$300 million.

Yet, the current push in many states is to institutionalize cuts and limitations on state government spending. In **California**, Governor Schwarzenegger is pushing the *Live Within Our Means* ballot initiative in November, which will ask voters to enact an initiative to prevent the state budget from growing faster than average increases in state revenues from the three prior years. Almost half of the states considered spending cap bills this year. Some had different approaches than California, such as prohibiting budget growth faster than the growth rate of the population, inflation or personal income. None of these passed, but the Americans for Tax Reform, an anti-tax activist group pushing these initiatives, believes that a successful effort in California this November as a catalyst for the 2006 state sessions.

Overall, states still fear budget shortfalls due to export of the federal deficit to the states in unfunded federal mandates, particularly through statutory and fiscal obligations imposed on the states for entitlement and mandatory programs, such as Medicaid.

### **A. Public Policy Issues for 2006**

The state and federal insurance legislative and regulatory agendas in the near future may well be dominated with issues related to Hurricane Katrina in New Orleans. An unprecedented level of construction will be needed to rebuild the highways and infrastructure of New Orleans. This effort will pressure the capacity of the surety, construction and other industries involved in rebuilding activities. Availability and affordability issues may need to be addressed. In addition, the area may be highly visible focal point for many of the current legislative and regulatory issues that affect surety, but particularly contract surety.

The SAA expects the usual busy state sessions in 2006 on commercial surety. The National Association of Insurance Commissioners (NAIC) recently adopted a new Public Adjuster Licensing Model Act. Through the efforts of SAA staff, the Model Act contains a \$20,000 bond requirement. The original draft permitted the licensee to submit liability insurance, a bond or a letter of credit as evidence of financial responsibility. The public adjusters vigorously opposed the new Model Act in general and urged the elimination of the bond requirement. The adjusters argued that lawyers, doctors, CPAs and others are licensed in the states without bonding requirements, and that public adjusters have peer review and grievance procedures to address consumer complaints. The NAIC disagreed, and the model act was adopted with the bond

requirement in place. There may well be some action on the model in 2006, and it remains to be seen if the public adjuster groups will be out in force opposing the model in general, and the bonding requirements in particular. **Texas** (H.B. 201/S.B. 1108) already enacted a requirement that public adjusters file proof of financial responsibility in an amount the commissioner will determine by rule. Texas will likely follow the NAIC's guidance in its rule. In **California**, legislation has been sent to the Governor (S.B. 518) to raise the value of the surety bond required from public adjusters from \$5,000 to \$20,000. The original bill draft in California set the bond at \$50,000.

SAA expects to continue to see a wide variety of legislation on bonding for mortgage brokers, payroll processors and others at the state level who either handle money for consumers or give advice that impacts their finances. There have been new bond enactments in this area recently, as states look to license individuals involved in financial matters and to assure that they comply with state and federal requirements.

The sponsor of the new **California** law, which raises the bond for talent agencies in order to protect actors from financial loss if their agency goes bankrupt or out of business, claims that other states populated with performers, such as **Illinois**, **New York** and **Tennessee**, will follow suit in 2006.

The U.S. Supreme Court's decision in *Granholm v. Heald* (544 U.S.---2005), which struck down state regulatory schemes that permit in-state wineries to ship directly to consumers but restrict the ability of out-of state wineries to do so, may have some surety bond implications. **Florida** S.B. 906, which failed to pass, would have required a direct shipper of wine to residents of the state be licensed and post a \$5,000 surety bond to assure payment of all taxes required by law. Nearly half the states have a restriction in place similar to the **Michigan** law that was held unconstitutional in *Granholm*. The issue goes back to the legislatures in those states as to whether they want to apply their existing restriction equally or allow any winery to ship to state consumers. If they choose the latter route, there may be more bonding bills next session.

## **B. State-Specific Issues**

SAA has approached the **Indiana** and **Nebraska** Insurance Departments about amending their laws to permit sureties to appoint the insurance commissioner as agent for service of process. These are the only two states that still require sureties to have an agent for service of federal process in each federal judicial district in the state in which bonds are provided. SAA hopes that each state will make the necessary amendment a part of the state insurance department legislative package next year. **Indiana** is one of the states that will have a short session next year, but the insurance department will still have a limited bill it will seek.

As usual, there are a number of states that need to develop a bond form and process as a result of new bond enactments in 2005. SAA will offer assistance to the states with any new bond forms.

## **C. Carryover States**

**Arkansas**, **Montana**, **Nevada**, **North Dakota**, **Oregon** and **Texas** are not in regular session in 2006. A number of other states have a short session in the even-numbered years in which only state budget and a limited number of other issues are considered before the state legislators go home to campaign for re-election.

The states in which legislation not enacted this session carries over to 2006 and can be considered next year are: **Alaska, California, Delaware, Georgia, Hawaii, Illinois, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Nebraska, New Hampshire, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Washington and Wisconsin.**

### **III. 2005 State Enactments on Commercial Surety**

This final section of the SAA Annual Report contains a comprehensive state-by-state listing of 2005 new laws affecting commercial surety. As SAA members are generally most interested in new bond enactments and any reduction or elimination of existing bond requirements, SAA publishes a monthly summary of those enactments on its website so that members will have prompt notice of these enactments. All the new bond enactments are included below, along with other enactments affecting commercial surety. This Report does not contain state legislation on bail bonds as these are tracked and reported to SAA members separately.

*This Report is accurate as to the enactments as of September 1, 2005. SAA will issue a year-end update on 2005 state and federal legislation in December 2005.*

SAA members can obtain a copy of these new laws on the websites of the state legislatures. SAA staff will be happy to assist its members in obtaining copies of new law.

#### **ALABAMA**

- H.B. 420 requires Elmore County to employ an engineer who must post a surety bond.
- S.B.106 allows those constructing condominiums to post a surety bond in order to use the purchaser's escrow funds to construct the condo.

#### **ALASKA**

- H.B. 94 raises the value of the cash, certified checks or bonds required to contest an election. The amounts are now \$1,000 for a precinct, \$2,000 for each House district and \$10,000 for a statewide race.
- H.B. 97 requires applicants for licensure as a notary to post a \$1,000 bond.
- H.B. 197 repeals the \$25,000 per incident proof of financial responsibility for an onshore exploration facility used solely to explore for non-conventional gas by drilling a well.

#### **ARIZONA**

- H.B. 2193 requires a wholesale drug distributor of prescription drugs to maintain a bond of at least \$100,000 or provide the equivalent means of security. This requirement could be waived if the distributor is already licensed in another state and has demonstrated financial security for that license.
- S. B. 1348 allows letters of credit as security for those licensed to grant degrees and to operate private vocational schools instead of just bonds or cash. In addition, the new law provides that a surety bond must be issued from a company that is A-rated or better by Moody's or Standard & Poor's.
- S.B. 1393 requires owners and operators of exploration operations and aggregate mining units that cause surface disturbances to demonstrate financial security and provides that a bond may be

used as one option. The financial assurance that must be shown is \$2,000/acre of new surface disturbance.

-- S. B. 1472 provides that for purpose of the insurance, including fidelity and surety bonds, of a professional employer organization (PEO), an employee is not covered unless specifically included by reference in the employment contract, insurance and surety bonds.

## **ARKANSAS**

-- H.B. 1233 removes the requirement for a bond from agents who represent political subdivisions on matters relating to the Public Employees Retirement System.

-- H.B. 1469 repeals the \$5,000 bond required of the deputy director of the Arkansas Bureau of Standards and the \$1,000 bond required of each of the Bureau's inspectors.

-- H.B. 2464 removes a \$25,000 bond requirement from the Legislative Auditor.

-- H.B. 2469 requires a bond of at least \$10,000 from sewage disposal system installers and from their designated representatives.

-- S.B. 336 enacts the Uniform Trust Act, which contains provisions regarding trustee bonds.

-- S.B. 337 requires that bond required of notary publics must be in a form approved by the Secretary of State.

## **CALIFORNIA – Adjournment September 8, 2005; Enactments to Date;**

-- S.B. 184 raises the amount of the surety bond required from talent agencies from \$10,000 to \$50,000.

## **COLORADO**

-- H.B. 1126 requires waste tire haulers to be licensed and post a bond in an amount not to exceed \$10,000. The Department of Public Health and Environment must promulgate rules to implement the new license requirement, including the form and the amount of the bond.

-- H.B. 1221 amends the licensing requirements for wholesale tobacco to include a surety bond in an amount equal to the wholesalers anticipated total monthly purchase of stamps, but the amount is subject to the wholesaler's discretion. A replacement surety bond can be posted if the monthly total changes after a license has been issued.

-- S.B. 15 modifies the bonding requirements of movers. Previously, movers needed a surety bond of at least \$750,000, or at least \$300,000 if they only use vehicles with a gross vehicle weight rating of less than 10,000 pounds. The new law allows the value of the bond to be determined by rules. The new law also allows surety bonds to be used to insure movers that are exempt from regulation as a public utility. Previously, only liability insurance or self-insurance was allowed. The law removes the minimum values required for this insurance and provides that the value should be determined by rule.

## **CONNECTICUT**

-- H.B. 6619 requires medical discount plan organizations to either maintain a net worth of \$250,000 or post a \$100,000 surety bond.

-- S.B. 948 prohibits home heating oil dealers from entering into prepaid home heating oil contracts unless they have obtained a surety bond or heating oil futures contracts.

## **DELAWARE**

-- H.B. 100 requires a bond to appeal a traffic violation over \$100.

-- S.B. 126 reincorporates the city of Dover. The city treasurer has to post a surety bond.

-- S.B. 203 requires manufactured home installers to post a performance bond.

## **DISTRICT OF COLUMBIA – No enactments to date.**

### **FLORIDA**

- H.B. 113 prohibits a surety from using as a defense in a claim under a bond that the principal was not licensed.
- H.B. 205 reduces the amount of the bond required from dealers, agents or distributors of cigarettes. The new law requires the bond to be in an amount equal to 110% of the estimated tax liability for 30 days, but not less than \$2,000.
- H.B. 759/S.B. 486 creates new financial responsibility requirements for mitigation of wetlands and other surface waters when mining phosphate.
- H.B. 1081 requires discount medical plan organizations to maintain a bond of at least \$35,000.
- H.B. 1231 amends the bond required for licensure as an agricultural products dealer. The new law requires the surety to give the Department of Agriculture and Consumer Services 30 days notice to cancel the bond. Existing law did not specify the bond amount, but the new law provides that it shall be an amount equal to twice the agricultural products handled in the state in the previous 12 months. New applicants will need to estimate that amount. The Department can increase or decrease the amount of the bond required and grant conditional licenses to those who cannot provide a bond or certificate of deposit for the full amount. Such persons will need at least a \$5,000 minimum bond and must meet other requirements.
- H.B. 1459 deals with bonds in commercial real estate transactions. If the transfer of commercial real estate is a like-kind exchange, which is deferred from federal income tax, the owner may substitute a surety bond, an unconditional letter of credit or other liquid security in lieu of amounts held by the broker or court registry for tax purposes. In addition, the new law allows a surety bond to be one method to transfer property when a lien is claimed. The bond must be in an amount equal to the lien claimed, plus interest for three years, plus \$1,000 or 25% of the amount demanded in the lien notice to apply to attorney's fees and court costs for any proceedings to enforce the lien.
- H.B. 1525 requires long-term health care community diversion pilot project provider to post a \$1.5 million performance bond or maintain \$1.5 million in surplus.
- H.B. 1697 allows mobile home dealers to provide a cash bond or an irrevocable letter of credit in lieu of a surety bond.
- H.B. 1717 requires those cultivating a non-native plant for purposes of fuel production to post a surety bond or certificate of deposit for each growing location.
- S.B. 486 requires those engaged in phosphate mining to post financial assurance for the mitigation costs of the wetlands affected under the permit. The assurance shall be in an amount equal to 100% of the mitigation costs for the first three years. For each year after, the estimate shall be updated to reflect the costs of the next year. Portion of the financial assurances given can be released as well under rules that need to be promulgated to implement this new law.
- S.B. 492 allows a mobile home owner who contests a lien on the home to post a surety bond or other security to have the mobile home released while the court proceedings take place. Similarly, the new law allows a mobile home owner to remove a mobile home transport company's lien by posting a surety bond or other adequate security.
- S.B. 620 allows a local government to impose a "reasonable surety requirement" to ensure the removal of wireless communications facilities that are no longer being used.
- S.B. 1330 removes a requirement that the individual officers and employees of a credit union post bonds and instead requires the credit union to maintain directors and officers insurance and blanket bond coverage in amounts and terms to be established by rule.
- S.B. 2412 repeals a surety bond required of viatical settlement providers and substitutes a \$100,000 deposit.

There were numerous bills enacted in Florida this session creating a fire, education or other district or civic authority. All contain provisions requiring the officers and/or board or trustees to maintain a surety bond. In most cases, the amount of the bond required is \$5,000. See H.B. 987, H.B. 1053, H.B. 1183, H.B. 1291, H.B. 1321, H.B. 1361, H.B. 1381, H.B. 1537 and H.B. 1707. H.B. 939, however, creates the Panama City Bay County Airport and Industrial District and provides that the officer, members and employees of the board of the District could be required to post fidelity bonds.

## **GEORGIA**

-- H.B. 360, H.B. 457, H.B. 511, H.B. 676 and S.B. 337 contain the charter for various cities and require the officers and employees of these cities to post surety or fidelity bonds, as the city council determines necessary and as required by law.

-- H.B. 367 increases the value of the bond required from driver training school operators from \$2,500 to \$10,000. In addition, the bill requires a facility established for the purpose of providing and installing ignition interlock devices, when their use is required by or as a result of an order of a court, to post a continuous \$10,000 surety bond.

-- H.B. 428 changes the definition of "property insurance" to exclude warranty service agreements for major appliances, utility systems and roofing provided that the contract, agreement or instrument is guaranteed by a surety bond in the amount of not less than \$100,000.

-- H.B. 466 establishes the office of disbursing clerk in Stewart County. The disbursing clerk is required to post a \$25,000 surety bond.

-- H.B. 501 raises the minimum value of the bond required from driver improvement clinics and DUI Alcohol or Drug Use Risk Reduction Programs from \$2,500 to \$10,000, per location.

-- H.B. 805 requires the clerk of Monroe County to post a \$2,000 bond.

-- S.B. 82 amends the bonding requirements for mortgage brokers and lenders to eliminate some of the alternatives to bonds. The new law repeals the provision that previously allowed an applicant for a license as a mortgage lender to show a net worth of \$250,000 or more so that the new law accordingly repealed the existing provision that permitted applicants with a net worth greater and \$100,000 but less than \$250,00 to post a \$100,000 surety bond for licensure. In addition, the new law clarifies that alternatives to the bond for check sellers do not apply to money transmitters.

-- S.B. 122 requires a scrap tire processor to post a bond in an amount to be determined by rules. Prior to the passage of this bill, the bond or letter of credit required from a scrap tire carrier could not exceed \$10,000. The new law provides that the bond cannot exceed \$25,000.

## **HAWAII**

-- H.B. 155 amends law regarding time-share developers. This bill allows developers to post a surety bond or other security instead of keeping a purchaser's funds in escrow. Furthermore, the bill raises the value of the existing performance and payment bonds from 100% to 110%. The law requires that a developer must post these bonds to use a purchaser's escrowed money for construction purposes.

-- S.B. 1132 provides that if the funds of a purchaser of a condominium are to be used to complete construction, proper financial security must be maintained. A surety performance bond equal to 100% of the construction costs would be one method to meet this requirement.

## **IDAHO**

-- H.B. 50 raises the amount of the surety bond for cosmetology schools from \$5,000 to \$25,000.

- H.B. 88 requires providers of continuing care to place funds received from residents in an escrow account and to post a surety bond or irrevocable letter of credit in an amount not less than the aggregate value of the escrow account.
- H.B. 106 creates the Idaho Energy Resources Authority and requires that the executive officer, secretary and treasurer post a \$1 million surety bond.
- S.B. 1169 requires a cyanidation facility to provide financial assurance with a bond not to exceed \$5 million.

Also, in a series of House Resolutions (HCR 3-5) the Idaho legislature now requires the printer that publishes the legislative bills, daily legislative journal and permanent legislative journals to post a \$5,000 bond or other collateral.

## **ILLINOIS**

- H.B. 690 creates the Eastern Illinois Economic Development Authority. Banks that hold the authority's money are required to post bonds at least equal in amount to the maximum sum expected to be on deposit at any one time.
- H.B. 1002 permits the courts to use a performance bond to preserve the availability of property subject to forfeiture.
- H.B. 1100 requires consumer-reporting services that verify payday loan agreements to post a \$1 million surety bond.
- H.B. 3121 creates the regional Planning Board for the most effective use of public and private investments in northeastern Illinois. The chair of the Board is required to post a surety bond.
- S.B. 572 creates the Intermodal Facilities Development Authority and requires the bank that serves as the depository for the Authority's funds to post a surety bond at least equal to the maximum sum expected to be on deposit at any one time.

## **INDIANA**

- H.B. 1153 provides that when any trustee of a property trust resigns, the liability of the resigning trustee or of any surety is not discharged or affected by the resignation.
- H.B. 1098 requires a wholesale drug distributor to post a surety bond or other security of at least \$100,000.
- S.B. 202 allows the Indiana Development Finance Authority to require surety bonds from any financial institution that serves as custodian or safekeeper for its securities and investments.
- S.B. 279 repeals a bond requirement for nonresidents that engage in municipal waste management.
- S.B. 307 gives the controller the authority to sue principals or sureties on any obligation, whether the obligation is in the name of the state or another person.
- S.B. 571 requires each member of a military base development authority to post a \$15,000 surety bond.
- S.B. 578 requires the public finance director and any other employee or agent of the Indiana Finance Authority, authorized by board resolution to handle funds or to sign checks, to post a \$50,000 surety bond. A blanket bond can be used. The new law enacts similar provisions for the Indian Health Care Facility Financing Authority, the Indiana Housing Finance Authority and the Indiana State Fair Commission. In addition, the law raises the bond required of members of the Indiana Port Commission from \$25,000 to \$50,000 and requires any employee of the Commission who handles funds or signs checks to post a similar bond.
- S.B. 626 requires gaming agents to each post a \$1,000 bond.

## **IOWA**

- H.B. 581 repeals a law requiring a company building an interstate natural gas pipeline to either have property subject to execution within this state, other than pipelines, of a value in excess of \$250,000 or a \$250,000 surety bond or other security.
- H.B. 836 requires any person installing a memorial in a cemetery to have a performance bond unless s/he has a \$1 million liability insurance policy. In addition, the bill allows a court with jurisdiction over a perpetual care fund for a cemetery to require the trustees of the fund to post a surety bond.
- H.B. 859 permits a court to require a receiver to obtain a surety bond in the dissolution of a cooperative.
- H.B. 868 requires the secretary of a port authority to post a surety bond.
- H.B. 737 raises the value of the bond required of mortgage brokers and mortgage bankers from \$15,000 to \$ 25,000 and \$30,000 to \$ 50,000, respectively.
- S.B. 342 removes a provision that permitted an employer to post a bond in lieu of insurance guaranteeing the employer's workers' compensation liability.

## **KANSAS**

- H.B. 2172 allows the state banking commissioner to determine the losses or damages incurred by a borrower or consumer of a mortgage company or broker. Previously, the law stated that the license bond of a mortgage broker shall be available for the recovery of expenses, fines and fees levied by the commissioner as a result of the licensee's failure to comply with the law. H.B. 2172 amended the law so that the bond shall be available for the recovery of expenses, fines and fees levied by the commissioner and for losses or damages which are determined by the commissioner to have been incurred by any borrower or consumer as a result of the licensee's failure to comply with the act.
- H.B. 2390 raises the value of the blanket performance bond that oil and gas well operators could post instead of an individual performance bond.
- H.B. 2457 enacts a cap on supersedeas bonds. The general rule is that the bond must be in the full amount of the judgment. If the appellant can show that this will cause undue hardship or deny the right to an appeal, the court can reduce the bond as follows: 1) for judgment under \$1 million, the bond shall be at the full amount of the judgment and 2) for judgments over \$1 million, the bond shall be for \$1 million plus 25% of any amount in excess of that. The new law provides that nothing shall prohibit a court from setting a supersedeas bond at a lower amount for good cause shown.
- S.B. 216 requires the operator of a processing facility or solid waste disposal area either to: (1) provide a trust fund, surety bond guaranteeing payment, an irrevocable letter of credit or an insurance policy to pay the costs of closure and post-closure care or (2) pass a financial test or obtain a financial guarantee from a related entity to guarantee the future availability of funds to pay the costs of closure and post-closure care.

## **KENTUCKY**

- H.B. 225 creates the Gas Transmission Authority and requires the treasurer to post a surety bond.
- H.B. 275 allows an insurance agent to work for 15 days without regulatory approval and removes the financial responsibility requirements. Previously, an insurance agent could work for 30 days without obtaining approval of the appointment by the commissioner, provided the agent had evidence of financial responsibility for \$1 million per occurrence and \$2 million in the aggregate for all occurrences within one year, either in the form of an errors and omissions

insurance policy, a bond, a deposit or any combination of these evidences of financial responsibility.

-- H.B. 381 exempts the guardian of a ward's estate from posting a surety bond if assets are placed in a restricted account.

-- S.B. 68 removes a provision that permitted grain dealers to post a certificate of deposit or letter of credit instead of a surety bond

## **LOUISIANA**

-- H.B. 214 repeals a \$10,000 bond requirement for the clerks of the district courts.

-- H.B. 599 establishes a variety of different bonds for those involved with motor fuel. There are requirements for suppliers, terminal operator licensees, distributors, importers, exporters, interstate motor fuel licensees. For any person requiring multiple bonds, the maximum bond shall be the highest bond level required. The bond is for compliance with the rules of the Port and payment of all taxes. Any of the bond requirements can be waived if the person, among other things, maintains assets in Louisiana with a net value of not less than one and one-fourth times the amount of the bond that would have been required. The new law also provides that the surety may be joined with the licensees in proceedings for the amount of the tax, penalties and attorneys' fees and costs.

-- H.B. 771 requires all operators of air-supported structures (amusement park attractions) to maintain a liability insurance policy or bond in an amount of at least \$300,000.

-- S.B. 224 allows the development of a system of special certificate agents to collect various registration fees for the state, including boat registration fees and commercial fishing license fees. These agents would have to post a surety bond of at least \$10,000 and no more than \$100,000.

-- S.B. 255 would permit the Motor Vehicle Commission to require any manufacturer, converter secondary manufacturer, distributor, wholesaler, factory branch and distributor branch licensee to post a \$1 million surety bond. Previously, only a manufacturer and distributor were required to post such a bond

## **MAINE**

-- H.B. 565 requires a deferred deposit lender to post a surety bond in the aggregate amount of \$10,000 per business office, not to exceed a total of \$50,000.

-- H.B. 692 requires the treasurer of the Town of Kennebunk to post a surety bond.

-- S.B. 222 raises the bond required from loan brokers from \$10,000 to \$25,000.

## **MARYLAND**

-- H.B. 507 creates new enforcement provisions for the Consumer Protection Act, which include requirements for security while violations are under consideration. A surety bond is one method of providing security.

-- H.B. 753 changes the value of the surety bond required from debt management service providers from not less than \$10,000 and not more than \$350,000 to not less than \$10,000 and not more than \$1 million.

-- H.B. 888 permits persons without a license to install a temporary dewatering device to facilitate the installation of underground utilities if it is removed no more than 30 days after installation and surface conditions are restored to their prior condition. Under existing law, those otherwise required to obtain a permit from the State Board of Well Drillers must post a performance bond in connection with their work

-- S.B. 159 repeals the exemption from bonding requirements for state mortgage lenders.

-- S.B. 222 raises the value of the bond required from loan brokers from \$10,000 to \$25,000.

-- S.B. 968/H.B. 1531 increases the amount of the reserves to be held in the state's Bituminous Coal Open-Pit Mining Reclamation Fund from \$300,000 to \$750,000 to help cover bond forfeitures.

#### **MASSACHUSETTS -- Still in Session.**

-- H.B. 4109 requires the town administrator of Rockland to post a surety bond.

#### **MICHIGAN -- Still in Session.**

#### **MINNESOTA**

-- H.B. 139 provides that the Department of Human Services can withhold money owed to a medical provider that is more than two months delinquent in the timely payment of a monthly surcharge installment payment. If the provider appeals this withholding, the Department can continue withholding the amount during the pendency of an appeal unless the provider posts a bond from a surety company licensed to do business in Minnesota in favor of the Department in an amount equal to two times the provider's total annual surcharge payment for the fiscal year in which the appeal is filed with the department.

-- H.B. 1385 increases the maximum value of the surety bond or other security required from private career schools from not less than \$10,000 nor greater than \$50,000 to a maximum value of \$250,000.

-- H.B. 2228 provides that, if a lender, surety or other person pays wages to a group of employees on behalf of their employer, they are liable for the taxes that are required to be deducted and withheld from such wages by an employer. If funds are supplied to an employer and the lender, surety or other person has actual notice or knowledge that the employer does not intend to pay the required employment taxes, the person providing the fund is liable for the taxes.

-- S.B. 69 requires service contract providers to maintain financial security. One method permitted is surety bonds in an amount not less than 5% of the gross receipts of all service contracts in force, less claims paid, but in no case less than \$25,000.

#### **MISSISSIPPI**

-- S.B. 2344 clarifies the bond requirements for title pledge lenders. Previously, title pledge lenders needed a \$50,000 bond for each location at which they did business, subject to a \$250,000 maximum. S.B. 2344 clarifies that the aggregate for all locations is \$250,000 and that no more than \$50,000 shall be recoverable at any one location. The new law accordingly modifies the provisions in the law by permitting cash, a certificates of deposit or government bonds as alternative security. These options to the bond must be \$25,000 for each location, with the maximum amount remaining at \$250,000.

-- S.B. 2742 requires anyone appealing a tax assessment to post a surety bond in an amount that is double the amount in question. As an alternative, the appellant may pay the tax under protest.

#### **MISSOURI**

-- H.B. 393 caps appeal bonds at \$50 million.

-- H.B. 323 modifies the pension law for police officers and civilian employees of the police department. Prior to the passage of this bill, the secretary and treasurer of the pension program had to be bonded at a value of "not more than 25% more than the maximum amount on hand during the previous calendar year, but not less than \$20,000." The new law requires the value of the bond to be determined by the retirement board and requires a corporate surety company to issue the bond.

- H.B. 707 requires all employees of the Division of Finance to post a surety bond. The new law also requires out-of-state banks and thrifts to meet the state capital and surplus requirements or maintain a bond for the performance of its fiduciary activities in a amount equal to the capital and surplus requirements. If the bank or thrift cannot verify that it meets either of these requirements, the Director of Finance may require a bond of at least \$1 million to assure performance in Missouri. Previously, such a bond was required only if the bank or trust was under the supervision of the federal Office of Thrift Supervision.
- S.B. 225 requires performance bonds or other financial assurance for scrap tire sites, scrap tire end-user facilities and scrap tire-processing facilities. Previously, such financial assurance was only required for scrap tire sites.
- S.B. 274 requires a travel club that has been adjudged to have failed to 1) provide the required refund to a person who has validly exercised the rights of rescission or 2) honor a settlement agreement to post a surety bond at the earlier of the judgment entered on said violations or its next annual registration. The bond must be for \$50,000 and increases by \$10,000 per reimbursement issued.
- S.B. 287 requires the chief financial officer of a charter school to post a bond.

## **MONTANA**

- H.B. 140 requires credit counseling services to obtain a surety bond in connection with licensure. The Department of Administration must establish the bond criteria. If the applicant for a license does not have an office in Montana, a \$50,000 bond is required.
- H.B. 147 permits a miner of rocks to obtain a single permit for multiple mining. A performance bond is now required to obtain a permit.
- H.B. 185 clarifies the bonding for an exploration license or operating permit for metal mining on state and federal land.
- H.B. 275 specifies how a vehicle is valued when an application is made for a certificate of title for the vehicle. A surety bond equal to the value of the vehicle must be submitted with this application. Under prior law, the surety company determined the value of the vehicle. The new law mandates that the applicant determine the value of the vehicle, through an appraisal guide or, if one is unavailable, through his/her own knowledge and belief.
- H.B. 350 modifies the bonding requirements for leased state land, raising the required bond and distinguishing between grazing land and agricultural land.
- H.B. 370 modifies the bond release procedures in connection with strip and underground mining.
- H.B. 606 adds bond requirements for small miners
- H.B. 671 clarifies that a bond must be provided in an amount equal to the value of a motor vehicle, trailer, semi-trailer or pole trailer when a certificate of title is sought and ownership needs to be proved.
- HB 790 provides that the Environmental Quality Council oil and gas and development and coal bed methane reclamation and bonding.
- S.B. 162 eliminates some public official bonds and adds others and permits a self-insurance plan to write the bonds.
- S.B. 373 requires a professional employer organization that cannot meet the \$50,000 net worth requirement to post a surety bond or other security of at least \$50,000.
- S.B. 380 requires medical care discount card suppliers to post a \$50,000 surety bond or maintain a \$50,000 surety account.

## **NEBRASKA**

- L.B. 276 requires bonding when an owner of a motor vehicle loses the title and requests another.
- L.B. 380 allows school district treasurers to use the equivalent insurance coverage instead of posting a bond.
- L.B. 439 modifies the calculation of value of the financial security required from grain dealers.

## **NEVADA**

- H.B. 39 requires anyone challenging the award of a local government purchasing contract to post a surety bond or other security in an amount equal to the lesser of 25% of the bid submitted by the person filing the protest or \$250,000.
- H.B. 55 increases the amount of the bond required of a justice of the peace from between \$1,000 to \$5,000 to \$5,000 to \$10,000.
- H.B. 249 provides that a surety issuing a bond to a motor vehicle dealer, distributor or manufacturer must appoint the secretary of state as an agent for service of process.
- H.B. 337 requires agencies that provide personal care services in the home to post a bond or alternative security for licensure.
- H.B. 372 allows the Rural Housing Authority to require that any bonds or notes it issues, or loans that it makes, be secured by surety bonds.
- H.B. 384 requires check-cashing, deferred deposit loan or short-term loan services to post a \$50,000 bond or equivalent security for licensure. In addition, the new law requires an additional \$5,000 for each branch at which the licensee conducts business.
- S.B. 37 requires a wholesale distributor of prescription drugs to post a bond or other security valued between \$25,000 and \$100,000. Publicly traded corporations are exempt from this requirement. The bond can be reduced after the distributor has been licensed for five years, but it can never fall below \$5,000.
- S.B. 116 now allows only a surety bond or a deposit to serve as financial security for an employment agency. Previously, savings certificates were also permitted.
- S.B. 133 eliminates the surety bond that private postsecondary schools were required to file if they participated in specified federal student assistance programs and their default rate exceeded the maximum rate under federal law. The new law also expands two existing \$10,000 bonding requirements for postsecondary schools that: 1) pose a financial risk to their students and 2) file for a change of ownership. The new law now requires all postsecondary educational institutions to post these bonds, not just licensed postsecondary educational institutions. Furthermore, the bill requires all postsecondary educational institutions that employ one or more agents in Nevada to post a \$10,000 surety bond. Previously, only postsecondary educational institutions not licensed in Nevada were required to post this bond.
- S.B. 325 requires applicants for a certificate for the management of a common interest community to post a surety bond.
- S.B. 333 changes the value of the bond required of cosmetology schools licensed after July 1, 2005. The bond that will now be required will be the total amounts of the bonds for all the programs offered, except that the amount must be rounded down to the nearest \$5,000 and the amount cannot be less than \$10,000 or more than \$400,000. Under the previous law, the bond was \$10,000. The bond for any program is determined by the cost a student pays to attend the program multiplied by the number of students in the program.
- S.B. 431 requires operators of a check cashing or deferred deposit service to post a \$5,000 bond or alternate security for each location at which the licensee does business. The existing law already requires such licensees to post a \$50,000 surety bond or alternate security. The new law also increases, from \$25,000 to \$35,000, the initial bond for collection agencies. The

subsequent bond for collection agencies is based on the licensee's average monthly balances.

-- S.B. 434 changes the bond requirements for residential pool or spa contractors. The required bond can be waived for any contractor that is licensed for more than five years. Previously, the bond could be waived after two years. The new law also provides that the bond cannot be less than \$10,000 or more than \$400,000.

### **NEW HAMPSHIRE**

-- H.B. 299 allows a property lien to be discharged if the owner posts a surety bond at 125% of the lien.

-- H.B. 488 specifies other forms of security that may be provided instead of a surety bond for a license or a license renewal from the Postsecondary Education Commission.

-- S.B. 168 amends the law regarding bonding of an estate. Currently, the judge can waive a bond requirement only when the estate has a value of \$50,000 or less or if the administrator is the sole heir. The new law provides that, if the estate has a value of less than \$25,000, only a personal bond, without sureties, is required. The judge can waive a bond at any time.

### **NEW JERSEY -- Still in Session.**

-- H.B. 3176 establishes a dedicated fund in the Department of Banking and Insurance. Various licensees in the financial services area, such as lenders, check cashers and money transmitters, will be assessed to fund the Department. The new law contains procedures for the Department to seize assets, including surety bonds, of licensees that do not pay the assessment.

-- H.B. 3835 may decrease the value of the bond required in connection with purchases of agricultural commodities from the grower for resale. The prior law required the bond to be equal to the maximum monthly value of the goods. The new law requires the bond to be between \$5,000 to \$150,000, depending on a formula to be promulgated by state regulators.

-- S.B. 1752 allows employees/partners in dental organizations that deal with the money of the organization to maintain crime insurance, or its equivalent, instead of being bonded. Prior to the passage of this bill, bonding was the only suitable instrument for such a person to maintain his faithfulness. This amendment still allows bonding; crime insurance, however, is now available as an alternative.

-- S.B. 1753 requires pharmaceutical wholesalers to be licensed and post a bond or other security, valued at no less than \$100,000. If gross receipts in the last year were less than \$10 million, a \$25,000 bond may be acceptable. If the wholesaler is licensed and bonded in another state, the bonding requirements may be waived. Separate bonds are not needed for each location.

### **NEW MEXICO**

-- S.B. 619 creates the New Mexico exposition center authority. Members of the authority are required to post a surety bond.

### **NEW YORK**

-- H.B. 5932 allows the town of Warwick to impose a real estate transfer tax. To appeal the tax or to apply for a refund, a surety bond must be posted in an amount to cover all costs of the proceeding.

-- S.B. 989 allows the county of Wyoming to impose a 3% hotel tax. Any person requesting a court to review their tax or applying for a refund of the tax would have to post a surety bond in an amount to cover all costs of the proceeding.

-- S.B. 5110 raised the bond required of ticket sellers from \$1,000 to \$50,000.

-- S.B. 5535 exempts licensed produce dealers from the requirement that they post a bond or a letter of credit if the dealer pays for deliveries with cash or cash equivalents. If such a dealer fails

to pay for a delivery, the Commissioner of Agriculture may then order the licensee to post security. The new law also provides that should the issuer of a bond or letter of credit fail to pay a claim, the Commissioner may pay it and pursue the claim against the issuer.

#### **NORTH CAROLINA—Adjournment August 31, 2005; Enactments to Date;**

- H.B. 488 requires the treasurer of the Town of Cary to post a surety bond.
- H.B. 1117 raises the value of the bond required from the financial officer of a local government authority from not less than \$10,000 to not less than \$50,000. The bond remains capped at \$250,000.
- S.B. 237 provides the criteria for licensure as a mortgage broker. The applicant must either: 1) have a net or of \$100 million or a parent company with that net worth and an unconditional guarantee from its parent or a comparable surety instrument; or 2) be a wholly owned subsidiary of a financial services company subject to the oversight of federal regulators and have a net worth of \$100 million or its parent must have the required net worth and provide a guarantee or surety bond.
- S.B. 622 limits Medicaid reimbursement payments to enrolled providers that either have a performance bond in place in an amount not to exceed \$100,000 or that have a letter of credit or other financial instrument honoring a demand for payment in an equivalent amount. The Department of Health and Human Services may waive or limit these requirements for providers based on their amount on monthly Medicaid billings or the length of time the provider has been licensed in the State.
- S.B. 679, similar to the Uniform Trust Code, revises the state trust law.
- S.B. 685 specifies how a surety may cancel surety bonds issued to a professional employer organization (PEO).

#### **NORTH DAKOTA**

- H.B. 1099 increases the bond required from mobile home, vehicle, trailer and motorcycle dealers.
- H.B. 1156 allows the telecommunications commission to require a telecommunications company that is not an incumbent telecommunications company to post a surety bond in an amount determined by the commission.
- H.B. 1169 creates the North Dakota Transmission Authority and has bonding requirements for members of the Authority.
- H.B. 1174 requires all those engaged in the business of money transmission to post a surety bond, irrevocable letter of credit, or other financial security for \$150,000.
- S.B. 2040 reduces the steps needed to release a performance bond for surface coal mining operations. Under prior law, the permittee had to post weekly advertisements for a month in the official newspaper of each county wherein the surface coal mining operation is located and in other daily newspapers of general circulation in the locality of the surface coal mining operation relating to his desire to have the bond released. The new law removes the requirement to publish in newspapers of general circulation. In addition, the law removes the requirement to notify by letter the owners of subsurface rights within the permit area of the intent to release the bond.
- S.B. 2043 eliminates some of the bonding requirements for state public officials and employees. All are provided through the State Bonding Fund.
- S.B. 2044 removes the \$10,000 surety bond requirement for nonresident seed dealers.
- S.B. 2187 establishes surety requirements for third-party administrators of self-insured life or health plans.
- S.B. 2273 caps appeal bonds at \$25 million.

## **OHIO -- Still in Session.**

- H.B. 66 requires each health-insuring corporation that provides coverage to Medicaid recipients to post a \$3 million performance bond. Securities in the amount of \$3 million can be posted in lieu of the bond.
- S.B. 81 exempts Indian tribes from a requirement that nonprofit organizations becoming liable for payments into the state unemployment compensation fund must post a surety bond.
- S.B. 209 requires that auction firms show proof of financial responsibility for licensure in the form of a \$50,000 surety bond, an irrevocable letter of credit or cash.

## **OKLAHOMA**

- H.B. 1234 amends the financial security requirements for those who sell checks. Under current law, either a surety bond or letter of credit is acceptable. The letter of credit must be from a bank with a capital to assets ratio in excess of 6% according to the bank's most recent financial report. The new law permits the letter of credit to be from a bank approved in writing by the state bank commissioner.
- H.B. 1535 repeals a deemer clause for fidelity, surety and guaranty bond rate and form filings.
- S.B. 19 allows bond forfeiture proceedings to be initiated against the applicable surety for failure to perform corrective work associated with a violation of the Mining Lands Reclamation Act.
- S.B. 729 requires discount medical plan organizations to post a bond of at least \$35,000.

## **OREGON**

- H.B. 2069 changes the amount of the bond that landscapers have to post for their license in order to conduct business. The basic bond is now \$3,000. The new law creates new tiers of bonds. The bond must be \$10,000 if the applicant for a license also constructs other structures, such as patios, decks and fences, along with the landscaping; \$10,000 if the applicant charges more than \$10,000 and less than \$25,000 for landscaping work; and \$15,000 if the applicant charges more than \$25,000 for a landscaping job. Existing Oregon law permits other forms of security.
- H.B. 2117 repeals a provision that a private investigator's license could be revoked if financial security is not maintained. The law still requires such security for licensure.
- H.B. 2145 requires parole officers who collect or have custody of money to post a bond in an amount to be determined by a court.
- H.B. 2228 allows a mail agent to post a \$10,000 letter of credit or a surety bond as financial security. Previously, the law allowed only a surety bond. The surety must now also be licensed in Oregon.
- H.B. 2429 raises the bond required to hold a dismantler's certificate (dealing with demolition of motor vehicles) from \$2,000 to \$10,000.
- H.B. 2595 adds the property of a homeowners association to the list of properties in state law for which no operator can apply pesticides without a license and a demonstration of financial responsibility.
- H.B. 2637 limits the right of action against the surety bond of a mortgage banker or broker to persons who sign the bank loan or the mortgage application.
- H.B. 2669 requires those who provide home service agreements to post a \$25,000 bond.
- S.B. 275 establishes the Uniform Trust Code.

## **PENNSYLVANIA -- Still in Session.**

## **RHODE ISLAND**

- H.B. 5504 requires the auto manufacturer to post a \$2,500 surety bond in an appeal of any arbitration decision in a dispute with a consumer or lessees of a motor vehicle.
- H.B. 5914/S.B. 697 requires the general treasurer of the Employment Security Penalty Fund to post a surety bond.
- S.B. 733 requires a Class A cigarette distributor to post a \$10,000 and a Class B cigarette distributor to post a \$1,000 bond.
- S.B. 1136 requires those applying to operate nursing facilities to meet financial thresholds, which can be satisfied with a line of credit, a joint escrow account established with the department, a performance bond or similar security.

## **SOUTH CAROLINA**

- H.B. 4086 allows for a sales tax instead of a property tax increase to fund school districts in Dillon County. There are bonding requirements for the process of reducing the property tax and moving to a sales tax. H.R. 4189 is similar but for the Marlboro County School District.
- S.B. 422 enacts the Uniform Trust Code in South Carolina.
- S.B. 588 repeals the authority of the state securities commissioner to require broker-dealer and investment advisors to post surety bonds.
- S.B. 607 requires credit counseling services to post a surety bond, which must be at least \$25,000.

## **SOUTH DAKOTA**

- H.B. 1248 raises the value of the surety bond required from money lenders from \$5,000 to \$10,000 for the first license and from \$1,000 to \$2,500 for each additional license.
- H.B. 1260 creates the Energy Infrastructure Authority and requires the depository of the Authority's money to post a surety bond in an amount at least equal to the maximum sum expected to be on deposit at any one time.
- S.B. 53 requires that entities, which are not health carriers but offer a plan or program providing a discount on health care goods and services, must register and provide a \$20,000 surety bond from a company licensed to do business in South Dakota. In the alternative, a \$20,000 bank account can be established in South Dakota.
- S.B. 70 allows a court, when it is involved in the dissolution of a company, to appoint a receiver to manage the affairs of the corporation. The court could require the receiver to post a bond.
- S.B. 154 exempts some non-profit entities and community development funds from the surety bond requirements for lenders of money and mortgage brokers.

## **TENNESSEE**

- H.B. 135 requires public utilities providing wastewater services to post a bond or other security.
- H.B. 955 requires specified pest control operators to post a \$50,000 surety bond in the first three years of operation and \$10,000 for subsequent years.
- H.B. 1253 requires an employee leasing company that chooses to provide its leased employees with a benefit plan through a self-insurance arrangements must have a net worth of \$100,000 or post a \$100,000 surety bond or letter of credit.
- H.B. 1784 requires pledge lenders to post a \$25,000 surety bond or other security for each business location with a maximum aggregate of \$200,000.
- H.B. 2171 creates the Northeast Tennessee Railroad Authority and requires the secretary-treasurer to post a bond.

- H.B. 2182 prohibits local governments from requiring financial surety for the removal of wireless support structures.
- H.B. 2358 creates the Director of Accounts and Budget who is required to post a surety bond in an amount not less than 50% of the trustee's bond amount.
- H.B. 2379 requires every officer, agent and employee having duties embracing the receipt, disbursement, custody or handling of money of the Town of Englewood to post a surety bond.
- H.B. 2389 creates the county budget committee for the county of Dyer. The director of finance and budgets of the county must post a surety bond valued between \$10,000 and \$25,000.
- H.B. 2423 requires the officers and employees of the City of Munford who handle the funds of the city to post surety bonds.
- S.B. 421 requires the petitioner to post a surety bond to cover the defendant's probable costs in a proceeding to dissolve a limited liability company (LLC).
- S.B. 823 requires permit bonds. For building permits under \$25,000, the bond must be \$10,000. For building permits greater than \$25,000, the bond must be \$50,000. For gas, mechanical, plumbing and excavation permits the bond must be \$40,000. A contractor with multiple trades can post one \$50,000 bond.
- S.B. 1129 provides that a contract between a tax payer and a tax preparation service company under which the service company agrees to pay any tax or penalty imposed because of an error in the tax preparation, is not a contract of insurance so long as the tax preparation services has a surety bond or other security of between \$100,000 and \$500,000.
- S.B. 1266 requires amusement ride owners to have a \$1 million per occurrence insurance policy or a \$1 million surety bond or other security.
- S.B. 1879 requires those certified as a soil scientists or consultants, those who perform percolation tests and those with permits to install subsurface disposal systems to post a \$30,000 surety bond, a certificate of deposit or an irrevocable letter of credit.

## **TEXAS**

- H.B. 135 changes the surety bond requirements for health spa operators in response to health clubs going out of business and members losing their contracts for services. The bond will now allow clubs to return membership money if the business closes down.
- H.B. 380 adds an insurance policy as another option to show financial security for oil and gas well plugging.
- H.B. 637 is a new law establishing minors' property rights. It contains a provision requiring a parent or managing conservator to post a surety bond in at least twice the amount of any loan or extension of credit on behalf of the minor.
- H.B. 1045 allows a time-share developer to use a surety bond, irrevocable letter of credit or other financial assurance instead of keeping a purchaser's deposits in escrow.
- H.B. 1139 removes the \$25,000 surety bond requirement from the receiver of the General Land Office.
- H.B. 2017 requires bonds of several public officials: the receiver of an insolvent insurer's estate, the members of the board governing a Texas child-care facility liability pool, every board member of a junior college district excess liability pool, those involved in a junior college risk management pool, any employee of a Texas public utility excess insurance pool and each member of the board governing a Texas nonprofit organization liability pool.
- H.B. 2018/S.B. 1108 requires public insurance adjusters to file proof of financial responsibility in an amount to be determined by the commissioner by rule. This is based on the NAIC Model Public Adjuster Licensing Act.

- H.B. 2120 prohibits the surety bond required of county treasurers from exceeding one-half of 1% of the largest amount budgeted for the general county maintenance and operations for any fiscal year, provided that the amount may not be less than \$5,000 or more than \$500,000.
- H.B. 2218 requires licensed money transmitters to post a surety bond, irrevocable letter of credit or deposit. The amount is the greater of \$300,000 or one percent of the license holder's yearly dollar volume of money transmission business in the state or the projected total for the first year of operations for a new licensee, up to a maximum of \$2 million.
- H.B. 2581 prohibits a corporation from selling undeveloped mausoleum space unless it establishes a preconstruction trust or posts a performance bond.
- S.B. 568 requires a security services contractor to post a surety bond.
- S.B. 796 allows surety bond requirements to be developed by rule for amateur combative sports associations
- S.B. 1108 amends the value of the bond required of the county treasurer. Previously, the county commissioner's court determined the value of the bond. The new law provides that the bond must be in an amount not to exceed one-half of 1 % of largest amount budgeted for county maintenance and operations, provided that the bond shall not be less than \$5, 000 or more than \$500,000.
- S.B. 1112 requires debt management service providers to post a surety bond or maintain insurance. The security must be in an amount equal to the average daily balance of the provider's trust account over the six-month period preceding the issuance of the bond, but in no case less that \$25,000 or more that \$100,000.
- S.B. 1214 allows counties with a population in excess of 800,000 to select a licensed insurance agent as the sole broker to obtain all the necessary insurance coverage in all areas of risk, including public official liability, property, casualty, workers compensation and specific and aggregate stop-loss coverage for self-funded health care.
- S.B. 1564 repeals a requirement that surplus lines agents post proof of financial responsibility.
- S.B. 1850 requires anyone with a liquor license to serve beer or wine in a county of more than 1.4 million people to post a surety bond.

## **UTAH**

- H.B. 273 raises the value of the surety bond or cash needed to release a mechanics lien. Prior to the passage of this bill, the value of the bond had to be equal to 150% of the amount claimed by the lien claimant in connection with the parcel of real property sought to be released. The new law provides the following bond values:
  - (A) 150% of the amount claimed by the lien claimant on a notice of lien or determined under Subsection (7), if the lien claim is for \$25,000 or more;
  - (B) 175% of the amount claimed by the lien claimant on a notice of lien or determined under Subsection (7), if the lien claim is for at least \$15,000 but less than \$25,000; or 200% of the amount claimed by the lien claimant on a notice of lien or determined under Subsection (7), if the lien claim is for less than \$15,000.
- S.B. 18 clarifies that surety bonds or other financial securities are needed from proprietary postsecondary schools when they are reapplying for registration if their registration has been deemed deficient. Furthermore, unless specific circumstances are met, registration cannot be rejected if all the necessary items for registration are present (including surety bonds or other financial security).
- S.B. 37 increases the bond requirements for various motor vehicle dealer, crusher and auto body shop licenses.

-- S.B. 103 allows the owner of an aircraft to have the aircraft released from a lien by filing a cash or surety bond, payable to the person claiming the lien, and conditioned for the payment of any judgment that may be recovered on the lien, with costs, interest and storage fees.

-- S.B. 149 amends bonding laws for unarmed combat matches. Previously, the Athletic Commission determined the value of the bond required to hold such a bout. The new law sets the value of the required bond or cashier's check at the greater of \$10,000 or the amount of the purse.

-- S.B. 170 requires persons who withhold, report or remit tax monies of another and who are required to collect, truthfully account for and pay over such monies to another, to post a bond for a license if their license was previously revoked due to delinquency in withholding, reporting or remitting any amount. The bond cannot be less than \$50,000 or more than \$500,000 and will be calculated based on the amount of the delinquency and money withheld. The new law contains similar provisions for persons who collect sales tax. Distributors of taxable motor fuel are also required to post a bond (not conditioned upon delinquency), whose value is based on estimates of the licensee's tax liability, and if the licensee were ever delinquent, the amount of the delinquency. The bond cannot be less than \$50,000 or greater than \$500,000. The new law modifies the bonding requirements of suppliers of diesel fuel to match the bonding requirements of distributors of taxable motor fuel. Prior to the enactment of this law bill, suppliers of diesel fuel were required to post a bond in an amount two times the estimated monthly tax, not to exceed \$100,000 but no less than \$35,000.

## **VERMONT**

-- S.B. 62 raises the value of the surety bond required from lenders and from mortgage brokers. Previously, lenders had to post a \$25,000 surety bond and mortgage brokers had to post a \$10,000 surety bond. The new law requires a \$50,000 surety bond for a lender's license and a \$25,000 for a mortgage broker's license. In addition, the bill requires a \$100,000 surety bond to maintain a lender's license for commercial lending. Under prior law, there was no distinct bonding category for commercial lending.

## **VIRGINIA**

-- H.B. 2210 provides a charter for the city of Waynesboro. The charter requires that all officers elected or appointed to execute the bonds as may be required by general law, by this Charter or by ordinance or resolution of the council and file the same with the city clerk. The city treasurer and city commissioner of revenue also must post a bond.

-- H.B. 2679 provides that, if a court determines, in an appeal of a tax in relation to a mobile property tax, local business tax or local license tax, that the appeal is frivolous, that collection may be jeopardized by delay or that suspension of collection would result in substantial economic hardship to the locality, the court may require the taxpayer to pay the amount in dispute or a portion thereof, or to provide surety for payment of the amount in dispute in a form acceptable to the court.

-- S.B. 891 enacts the Uniform Trust Code in Virginia. A trustee must post a bond only if the court finds that a bond is needed to protect the interests of the beneficiaries or if a bond is required under the terms of the trust

-- S.B. 1013 exempts special conservators of the peace employed by private corporations and meeting specified training requirements from posting cash or a surety bond.

-- S.B. 1023 establishes laws regarding guardianship and conservatorship for incapacitated persons. A conservator would manage the financial affairs and estate of an incapacitated person, while the guardian would be responsible for such person's personal affairs. Surety shall be required on the bond of the guardian and the conservator's bond may be with or without surety,

as ordered by the court. Furthermore, the new law stipulates that, whenever provision is made for the appointment of a fiduciary by a circuit court, the clerk of the court also shall have the authority to take the required bond, set the penalty thereof and pass upon the sufficiency of the surety thereon.

-- S.B. 1059 changes the amount that the State Treasurer can charge insurers to help defray the expense of the State Treasurer's office in the safekeeping and handling of the securities or surety bonds. Previously, the State Treasurer could assess each insurer not more than one tenth of one percent of the par or face value of the securities or surety bonds deposited to its account. Under the new law, the State Treasurer can assess each insurer not more than "one-fourth of one percent of the par or face value of the securities or surety bonds on deposit with the State Treasurer's office." Funds will be deposited in the Insurance Collateral Assessment Fund. Excess monies will be kept in this fund and not transferred to the general fund as was done under the prior law.

## **WASHINGTON**

-- H.B. 1189 repeals a law that allowed the county to require the commander of a chapter of a veterans' organization that was distributing relief to veterans to post a bond.

-- H.B. 2173 provides that, when a court suspends or vacates an order due to military service, the court may also suspend or vacate the liability of a surety.

-- S.B. 5788 allows the Department of Ecology to develop financial assurance requirements for recycling facilities. The assurance cannot be less than \$10,000.

-- S.B. 6022 excludes surety from any exemptions in the state's anti-directed insurance law. S.B. 6022 amended the existing anti-directed insurance to exclude public projects in excess of \$200 million and to provide that any exemptions to the prohibition against directed insurance programs do not include surety.

## **WEST VIRGINIA**

-- H.B. 2570 allows banks to accept public funds for education without posting a bond or other security if such funds are placed in an account insured by the FDIC for the full amount accepted.

-- S.B. 261 requires a bond of not more than \$300 to cover costs in order to demand a recount in a special election.

-- S.B. 558 transfers the consolidated fund of state monies to the West Virginia Board of Treasury Investments for better cash management. The West Virginia Board of Treasury Investments will consist of five board members, each of whom must post a \$1 million surety bond. In addition, the board must purchase a blanket bond for either \$50 million or an amount equivalent to 1% percent of the assets under management, whichever is greater.

-- S.B. 603 requires correspondence, business, occupational and trade schools that have their physical facilities located in this state, and that have operated in the state for at least ten years, to post a \$35,000 bond. Those schools that have operated for less than ten years have to post a \$50,000 bond.

-- S.B. 1004 establishes a new tax on severing or producing natural resources in order to pay down the liability in the workers' compensation fund. The tax commissioner could require the taxpayer to post a cash or surety bond to ensure compliance with this new tax requirement. The bond would not be less than \$500 and would not be greater than three times the average quarterly liability of taxpayers filing returns for quarterly periods, five times the average monthly liability of taxpayers required to file returns for monthly periods or two times the average periodic liability of taxpayers permitted or required to file returns for other than monthly or quarterly periods.

**WISCONSIN—Still in Session.**

**WYOMING**

- H.B. 225 increases the amount of the license bond required for a motor vehicle dealers or manufacturers license from \$10,000 to \$20,000.
- S.B. 13 requires a \$25,000 bond for each license application under the Residential Mortgages Act. The bond now required for each licensed office would increase to \$10,000. The bond requirements, however, provide that the bond will be forfeited and paid the to state upon default.
- S.B. 18 now allows a letter of credit to be used instead of a surety bond or cash for a warehouseman or warehouse license.
- S.B. 60 establishes new bonding requirements for gas and oil operations.