



The Surety & Fidelity
Association of America

2006 ANNUAL

STATE LEGISLATIVE REPORT

ON

COMMERCIAL SURETY

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2006 in Review.....

The variety of issues that SFAA addressed in 2006 regarding commercial surety matches the great variety of commercial surety products in the marketplace. Some key issues for SFAA in 2006 were:

- ***Illinois Power of Attorney Reform is the Victim of a Short Session.*** SFAA drafted legislation and background information and worked with AIA to amend the **Illinois** law to give sureties the option of attaching a power of attorney to each bond or recording the power of attorney in the circuit courts. This legislation is needed to alleviate the current burden of annual filings required in some state circuit courts, most notable in Cook County. The bill was introduced as SB 655, and it passed the Senate unanimously. The bill did not get out of the House Rules Committee in time for it to be heard and passed, as Illinois had a short session this year. SFAA has this on its agenda again for 2007.

- ***Service of Process Surfaces.*** Prior to this session, **Indiana** and **Nebraska** were the only two states that did not have a state official to receive service of process for purposes of 31 USC 9306, so that SFAA members had to file an agent for service of process in the federal district courts of those states if they wrote any bonds required or permitted for the federal government. SFAA has longstanding model amendments, and AIA state counsel successfully had them added to Indiana HB 1359 to solve the service of process issue for sureties in Indiana. The new law requires foreign insurance companies that write surety bonds to appoint the Insurance Commissioner as the agent for service of process. SFAA has targeted Nebraska for 2007 so that this issue will be solved in all jurisdictions.

The **Iowa** Insurance Department had a provision introduced in SB 2364 to repeal the requirement that the Insurance Commissioner act as agent of service of process for insurers. The Department bill would have caused SFAA members to begin filing an agent for service of process in the Iowa federal district courts. SFAA worked with AIA to craft an amendment that designates the Secretary of State to receive service of process for sureties for purposes of 31 US C 9306 to the extent the surety cannot otherwise be served in Iowa. Insurers otherwise file a resident agent for licensure in Iowa.

- ***Bad Faith Was Defeated in the 2006 State Sessions.*** Bad faith legislation moved but was defeated in **Rhode Island, Louisiana** and **Wyoming**. Louisiana SB 707 would have given third parties a cause of action against insurers and did not exclude sureties from its provisions. The bill passed the Senate but did not pass out of the House Insurance Committee. Senate Bill 2182 in Rhode Island was aimed directly at contract sureties and would have permitted "any obligee, principal or claimant under any performance or payment bond" to sue the surety on the bond for bad faith failure to pay or settle a claim. It passed the Senate but did not get out of Committee in the House. Late in the session, however, a companion to the Senate bill was introduced in HB 8250. The bill did not move but may be an indication that a sponsor and support has surfaced in the House so that we will see this bill again in 2007. Wyoming HB 68, which would have created a third party bad faith and a direct action law, was killed on the House floor this year.

- ***New NCCUSL Model Legislation Has Mixed Results.*** The new Uniform Debt Management Services Act of the National Conference of Commissioners on Uniform State Law (NCCUSL)

was introduced into the states for the first time in 2006. It requires providers of debt management services to be licensed and to post a \$50,000 license bond from an “A” rated surety. Other NCCUSL models contain licensing and bonding requirements, but this new model seems to be the first one that requires an “A” rated surety.

SFAA submitted comments to NCCUSL to ask that this model be amended so that a surety could write the bond if it complies with the requirements of the state insurance code, is listed on the U.S. Treasury list or has a rating of “excellent” or better from a nationally recognized rating organization. NCCUSL generally accepts technical comments on its model legislation, particularly after a model is first released for enactment in the states. When its uniform acts are introduced into the states, however, there usually is great resistance at the state level to any amendments without guidance from NCCUSL. SFAA also will work through the American Bar Association (ABA) to seek a change as all NCCUSL model laws are sent to the ABA House of Delegates for approval.

Rhode Island and **Utah** enacted the model in 2006 with the requirement for an “A” rated surety. **Delaware** and **Mississippi** enacted it without the eligibility requirements for the surety. The NCCUSL model failed to pass in **Colorado** and **Illinois**. Both of these bills contained the “A” rating requirement.

Some Key Bills Addressed in 2006 Were As Follows:

● **Maine—Payroll Processor.** HB 1318 changes the payroll processor bond in Maine. Payroll processors were required to bond the highest volume of insurance premiums and tax payments in a three-month period in the previous calendar year, or \$50,000, whichever is greater, with a \$500,000 overall cap on the bond. HB 1318 allows small and unsupervised financial organizations to post a \$10,000 bond, and then look to a state recovery trust fund for the rest of the required bond protection. Payroll processors must remit an initial assessment to the recovery trust, and they are subject to an annual assessment thereafter of 1% of their required bond amount.

● **North Carolina—Cancellation and Non-renewal of Motor Vehicle Bonds.** SB 615 adds provisions on cancellation and non-renewal of motor vehicle bonds. A surety may cancel a bond before the next premium date without the licensee’s prior written consent for the following reasons: 1) the bond premiums have not been paid or 2) for any act or omission of the licensee or his or her representative that is a material misrepresentation or nondisclosure of a material fact when obtaining the surety bond. The surety is required to give 30 days written notice by certified mail to the Commissioner of Insurance and the licensee at his or her last known address, and must state the reason. Should the amount due be paid before the effective date, the cancellation does not take effect. If the surety is cancelled, it does not affect any liability that is incurred or accrued prior to the termination of the 30-day notice period. The new law also provides that a surety is allowed to refuse to renew a surety bond so long as it gives the notice of non-renewal to the licensee by certified mail to his or her the last known address and to the Commissioner. This notice must be sent 30 days prior to the premium anniversary date of the surety bond. Termination of the surety bond by non-renewal does not affect any liability that is incurred or accrued prior to the premium anniversary date of the surety bond.

- **California AB 630—Immigration Bonds.** This bill would have imposed a fine of up to \$10,000 on the surety for failure to notify the District Attorney of the county in which an immigration consultant's bond has been canceled. The surety already must notify the State, so this appeared to be an effort to make the surety communicate the information to the proper enforcement arm of the State due to an apparent communication gap within state government. The required reporting for the surety was removed from the bill, and that bill was enacted.

- **Insurance Claims.** Louisiana SB 620 changes the Insurance Code provisions concerning the regulation of provisions in insurance contracts, such as cancellations and non-renewals. Insurers now are required to pay an additional 50% of the damages, plus attorneys' fees and costs, if a claim is not paid within 30 days. The penalty was set at an extra 25% and no attorneys' fees were awarded under prior law.

Other Commercial Surety Issues Addressed in 2006:

- **License and Permit Bonds.** Licensure and bonding for financial services providers continues as a state legislative issue. Many states now require mortgage brokers to be bonded. **Colorado** added a bond requirement this year, while **Iowa, Kentucky** and **Nebraska** raised the amount of the bond. **Hawaii, Kentucky** and **Michigan** enacted bond requirements for money transmitters, and **Kansas** raised the value of this bond. Payday lender legislation was introduced again, but most of it failed to pass this year.

There were more home service contractor bills introduced this year, but most of the bills did not pass. Pending legislation in **New Jersey (AB 3048)** still has a chance of passage as it will carryover into 2007.

Louisiana, New Hampshire and **Tennessee** enacted some version of the new NAIC Model Public Adjuster Act, which requires licensure and bonding of public adjusters. The new model act was introduced in the states for the first time this year. SFAA expects more states to introduce it next year.

- **Public Official Bonds.** **Florida** and **Georgia** enacted many new public official bonds as usual. Both states require the charters of new public entities to be enacted, and the charters usually contain bonding requirements for public officials in the newly created entities. **Illinois** created several new public authorities this year and required bonding.

- **Court Bonds.** **Florida** and **Hawaii** enacted significant limits on appeal bonds as part of overall tort reform efforts.

- **Fiduciary Bonds.** **Alabama, Florida, Ohio,** and **Pennsylvania** enacted the NCCUSL Uniform Trust Act this year, which contains provisions that may reduce bonding of trustees of estates.

- **New Tax Bond.** In response to the 2005 U.S. Supreme Court decision in *Granholm vs. Heald*, which overturned state laws prohibiting out of state wineries from shipping products into their state, **Arizona** and **Indiana** responded with enactments of new bond requirements for shippers to assure payment of all taxes, penalties and other obligations under state law.

2006 Annual State Legislative Report on Commercial Surety

Introduction

Because of the diversity of the business of its members, SFAA tracks all state and federal fidelity and surety legislation. In reporting legislative developments, however, SFAA has moved to reports based on the three major lines of business -- contract, commercial and fidelity. This report contains the 2006 enactments on commercial surety. Interested SFAA members can access the reports on contract surety and fidelity on the SFAA website.

This SFAA Annual State Legislative Report on Commercial Surety contains two major parts. One section contains a summary of the 2006 state legislation on commercial surety issues that are either priorities for SFAA, issues that our members have asked SFAA to track or new issues that SFAA has seen in the 2006 state legislative sessions. The second section is a state-by-state compilation of the 2006 state enactments relating to commercial surety. Most of the enactments deal with new bond opportunities and elimination or reduction of existing bond requirements.

I. Highlights of State Legislative Activity on Commercial Surety Issues

License and Permit Bonds

• Mortgage Brokers

—**2006 Enactments.** **Colorado** HB 1161 requires mortgage brokers to post a \$25,000 bond. **Georgia** SB 505 exempted mortgage brokers and mortgage lenders from the existing license bond requirements, which are \$50,000 and \$1 million respectively, if they have an exclusive independent contractor agreement with a financial holding company, bank holding company, savings bank holding company or thrift holding company which, among other requirements, posts the lesser of a \$50,000 bond per person or a \$1 million bond. **Kentucky** HB 462 raises the minimum value of the bond required from mortgage loan brokers from \$50,000 to \$100,000. The new law also raises the minimum value of the bond required from mortgage loan companies from \$100,000 to \$250,000. **Nebraska** LB 876 raises the value of the surety bond required from mortgage bankers from \$50,000 to \$100,000. **New Hampshire** HB 1126 requires mortgage bankers to post a \$20,000 surety bond. Previously, only mortgage brokers were required to post this bond. In **Washington** a mortgage broker had to post a surety bond or other security valued between \$20,000 and \$60,000. HB 2340 now allows surety bonds only to be posted to meet this financial assurance requirement.

—**Dead for 2006.** **Alaska** HB 424 would have required mortgage brokers to post a \$25,000 license bond. **Hawaii** HB 2316/SB 2279 would have required mortgage brokers to post a \$50,000 bond. **Michigan** SB 639 would have increased the bond for mortgage brokers and mortgage servicers. **Pennsylvania** HB 1395 would have required a facilitator of loans to post a \$100,000 bond or alternate security.

• Money Transmitters

—**Enactments.** **Hawaii** SB 2143/HB 2973 requires money transmitters to post a \$1,000 bond or alternate security. The bond could be increased to a maximum value of \$500,000 depending on the financial condition of the licensee. Claimants against the licensee, as well as the State, may

bring claims against the bond. **Kansas** HB 2874 raises the value of the bond for money transmitters from a minimum of \$50,000 to a minimum of \$200,000. **Kentucky** SB 123 requires money transmitters to post a bond or other security valued between \$500,000 and \$5 million. **Michigan** HB 5324 and 5328 requires money transmitters to post a bond of between \$500,000 and \$1.5 million. **Ohio** HB 454 requires money transmitters to post a surety bond or other financial security valued between \$300,000 and \$2 million.

- **Credit Counseling Services**

—**2006 Enactments.** **Indiana** HB 1114 raised the value of the bond required from credit service organizations from \$10,000 to \$25,000.

—**Dead for 2006.** **Massachusetts** SB 211 would have required consumer credit counselors to post either a surety bond in the amount of \$100,000 or the applicant's net worth or liability insurance coverage. This bill was included in a study order of several bills under SB 2564, conducted by the Joint Committee on Consumer Protection and Professional Licensure. The study order then was referred to the Joint Committee on Rules, but no action was taken prior to adjournment.

- **Pay Day Lenders**

—**Dead for 2006.** **Pennsylvania** HB 1478 would have required payday lenders to post a \$100,000 bond. **Iowa** HB 2003/SB 2060 would have enacted a regulatory scheme for pay day lenders; **West Virginia** HB 2529 would have required a payday lender to post a \$25,000 bond per licensed location and West Virginia SB 56 would have specified that the maximum aggregate amount a bond could be would be \$250,000.

- **Home Contractor Bonds**

—**2006 Enactments.** There was an increase in the number of home contractor license bond bills introduced in 2006, but few of these bills passed this year. **Tennessee** HB 3463 raises the value of the bond required from a home improvement contractor from \$10,000 to \$25,000.

—**Dead for 2006.** **Hawaii** HB 3076 would have required specialty contractors and general contractors to post a \$5,000 bond. Roofing contracts that guarantee workmanship for more than seven years would have had to be accompanied by a surety bond. **Idaho** HB 773 would have required electricians, electrical contractors, master electricians, specialty electricians, specialty electrical contractors and plumbing contractors to post a \$40,000 bond. **Louisiana** SB 279 would have lowered the bond amount required from a contractor performing residential construction from 1/3 of the price and not less than \$50,000 to 1/4 of the price. **Mississippi** HB 985 would have required persons who perform residential construction or residential improvement to post a \$50,000 bond. **Nebraska** LB 906 would have amended the Nebraska building contractor registration law and instituted a bond requirement. **Oklahoma** HB 761 would have required a license and a \$10,000 surety bond for electrical, plumbing and HVAC contractors. **Rhode Island** HB 7351 would have required contractors to post a bond. The value of the bond would have been determined by rule and would have ranged from \$1,000 to \$500,000, depending on the contractor. The bond would have been required to be issued by a company rated 'A' or better. **South Carolina** SB 1219 would have raised the value of the bond required from a residential builder from \$15,000 to \$30,000. Furthermore, a residential specialty contractor would have been required to post a \$30,000 bond. Under existing law, such a contractor must post a bond in an amount determined by a state building commission.

Probably the most significant bill was **New York** AB 658/SB 4314, which would have required home improvement contractors to be licensed and bonded. The amount of the bond would have depended on whether the price of all the contractors' contracts in the preceding year were less than \$500,000, between \$500,000 and \$1 million or greater than \$1 million. This bill failed.

● **Motor Vehicle Dealers Bonds**

—**2006 Enactments.** **Georgia** HB 1075 raises the value of the bond required from used car dealers from \$20,000 to \$50,000. **Louisiana** HB 1377 requires used motor vehicle dealers to post a \$20,000 bond. **South Carolina** HB 4532 raises the value of the bond required from automobile wholesalers and dealers from \$15,000 to \$30,000. **Virginia** SB 306 raises the value of the bond required from motor vehicle dealers from \$25,000 to \$50,000.

—**Dead for 2006.** **New York** SB 5992 would have required motor vehicle service contract providers to post a financial security in an amount not less than 5% of the gross consideration received from sales, less claims paid, under all service contracts issued and in force, but not less than \$50,000. A surety bond would have been one acceptable form of security. In addition, this bill would have raised the value of the surety bond required from motor vehicle dealers from \$50,000 to \$1 million. **Mississippi** HB 239 would have raised the value of the bond required from motor vehicle dealers from \$15,000 to \$25,000, and **Mississippi** SB 2717 would have raised the value of the bond required from motor vehicle dealers from \$15,000 to \$50,000. **West Virginia** HB 4478 would have raised the value of the bond from new motor vehicle dealers from \$10,000 to \$50,000. **Wyoming** SB 75 would have required out of state recreational vehicle dealers to post a \$50,000 bond.

Court Bonds

● **Appeal Bonds**

—**2006 Enactments.** **Florida** HB 841 limits appeal bonds in all civil cases, except class actions, to \$50 million, with the amount to be increased annually to reflect changes in the Consumer Price Index. The new law permits the courts to reduce the amount of the bond in the interests of justice and for good cause shown, except if there is insurance or indemnification in the case. The appellee may engage in discovery to determine if the appellant is dissipating or diverting assets. **Hawaii** HB 3250 limits appeal bonds to \$25 million regardless of the amount of the judgment. For "small business concerns," as that term is defined in Hawaii law, an appeal bond cannot be more than \$1 million. **Virginia** HB 812 removes the requirement for an appeal bond from a plaintiff in a civil case where the defendant has not asserted a counterclaim. **Washington** SB 6541 limits appeal bonds from the tobacco master settlement agreement signatories to \$100 million.

—**Dead for 2006.** **Alabama** SB 183/HB 591 would have limited appeal bonds to \$125 million in cases related to tobacco manufacturers that are parties to the master settlement agreement. **Maryland** HB 1333 would have limited appeal bonds to \$75 million regardless of the judgment, and HB 1332 would have expedited the appeal process when the amount of the judgment exceeded the \$75 million limit. **North Carolina** SB 989 would have provided that an appeal bond in a medical malpractice case would be the lesser of the amount of the judgment or the appellant's medical malpractice coverage. **Oklahoma** HB 3120 would have limited appeal bonds to the lesser of \$25 million or 10% of the net worth of the defendant. **Oklahoma** HB

2519 would have limited the appeal bond of a nonparticipating manufacturer, which is in compliance with the escrow statutes, pursuant to the master tobacco settlement agreement to \$2.5 million. **Rhode Island** HB 7199/SB 2245 would have limited appeal bonds to \$50 million for signatories to the master tobacco settlement agreement. Carryover legislation in **Rhode Island** in HB 6198 also died. **South Carolina** HB 4363/SB 971 would have capped appeal bonds at 50% of the defendant's net worth or \$10 million. **West Virginia** HB 4096 would have limited appeal bonds to \$25 million for compensatory damages and \$25 million for punitive damages.

Fiduciary Bonds

—**2006 Enactments.** **Alabama** HB 49 enacts the Uniform Trust Act. The new law also removes a provision requiring bonds if the trust estate is moved to another state or jurisdiction. Under prior law, the persons requesting the moving of the estate had to post a surety bond, and the new trustee had to post a surety bond valued at double the amount of the trust estate. **Florida** SB 1170, **Ohio** HB 416, and **Pennsylvania** SB 660 enact the Uniform Act. Both the Pennsylvania and Ohio laws exempt from bonding any regulated financial institution qualified to do the trust business in the State, even if bonding is required by the terms of the trust. In addition, the Pennsylvania law repealed the Pooled Trust Act passed in 2002.

Of note, all of the uniform trust laws adopted in 2006 contain the following model language:

- (a) A trustee shall give bond to secure performance of the trustee's duties only if the court finds that a bond is needed to protect the interests of the beneficiaries or is required by the terms of the trust and the court has not dispensed with the requirement.
- (b) The court may specify the amount of a bond, its liabilities, and whether sureties are necessary. The court may modify or terminate a bond at any time.

—**Dead for 2006.** The Uniform Trust Act was introduced but failed in **Colorado** (HB 1258) and **Connecticut** (SB 429).

Public Official Bonds

● **Notary Bonds**

—**2006 Enactments.** **Alaska** HB 97 requires applicants for licensure as a notary to post a \$1,000 bond. As originally drafted, **Illinois** SB 304 would have raised the amount of the notary bond from \$5,000 to \$50,000. As the bill was amended, it was gutted – eliminating the bill's notary provisions entirely.

—**Dead for 2006.** **Kentucky** HB 564 would have required notaries to post a \$25,000 bond. **Illinois** HB 4958 would have required real estate notaries to post a \$25,000 bond. Real estate notaries that are employed by a government entity would have to post a \$5,000 bond. **Louisiana** HB 116 would have required notaries to post a surety bond. HB 514, 701 and 752 were similar to HB 116. SB 631 also was similar to HB 116, but all the bills died. **Massachusetts** SB1060 would have required notaries to post a \$15,000 surety bond. **Mississippi** SB 2481/HB 936 would have required notaries to post a \$10,000 bond.

II. Looking Ahead to 2007...

2007 is the start of a new legislative session in all the states except New Jersey and Virginia, which carryover from 2006. **Alabama, Florida** and **Louisiana** still are the “spring session” states with the later starting dates in March and April. Look for **Louisiana**, however, to have another special session before its regular session to addressing the continuing issues of recovery from Katrina. For a majority of states, this is the first of a two-year session and bills not enacted in 2007 can carryover to 2008.

The November, 2006 elections in the states were ‘federalized’ in that Democrats gained a total of 274 state House seats and 56 state Senate seats. This mirrored the change in the U.S. Congress. All states except Nebraska have two chambers, for a total of 99 state legislative bodies. With the elections shifting control to the Democrats in 10 state chambers and the Republicans gaining control of only one chamber, which was previously evenly divided, in 2007 the Democrats will control 56 state chambers and the Republicans will control 41 state chambers. The Oklahoma Senate is evenly divided and legislators in Nebraska’s unicameral legislature run on a nonpartisan basis.

--States in Which the Democrats Will Have Total Legislative Control (23): Alabama, Arkansas, California, Colorado, Connecticut, Hawaii, Illinois, Iowa, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, New Hampshire, New Jersey, New Mexico, North Carolina, Oregon, Rhode Island, Vermont, Washington and West Virginia.

--States in Which the Republicans Will Have Total Legislative Control (15): Alaska, Arizona, Florida, Georgia, Idaho, Kansas, Missouri, North Dakota, Ohio, South Carolina, South Dakota, Texas, Virginia, Utah and Wyoming.

--States in Which Republicans and Democrats Each Control One House (11): Delaware, Indiana, Kentucky, Michigan, Montana, Nevada, New York, Oklahoma, Pennsylvania, Tennessee and Wisconsin.

At the start of each year, the National Conference of State Legislators (NCSL) releases its “Top Ten” list of hot political issues for the upcoming state legislative sessions based on surveys of its members. For 2007, the NCSL expects the following to be key issues in most states:

- 1) **Immigration.** To the extent Congress is deadlocked on immigration reform, the Number One issue in the states will be “innovative” solutions to the social and economic issues illegal immigrants present in each state.
- 2) **Real ID.** States need to act to comply with the federal Real ID Act, which aims to standardize the state drivers’ license process so that states authenticate documents that residents provide as identification and as proof that they are legally in this country.
- 3) **Budgets.** Most state budgets are still in pretty good shape, but most states are expecting some budget pressure because of two federal programs that the states are struggling to implement, namely, No Child Left Behind and Real ID.
- 4) **Health Insurance.** All the states want to review the new laws in Massachusetts and Vermont as a possible model for providing coverage to the uninsured.

- 5) ***Sex Offenders and Predators***. States have to implement the federal Child Protection and Safety Act of 2006, which requires them to meet standards in sharing information with other states about sex offenders and increasing penalties for failure to register as a sex offender. States will lose related federal funding for failure to comply.
- 6) ***Energy and Environment***. Global warming is becoming an issue and states may move to limit emissions and encourage alternative energy sources.
- 7) ***Minimum Wage***. This will be an issue in states in which the Democrats are in control as the national political party has this as a key priority—federal and state.
- 8) ***Higher Education***. Most states have issues with rising tuition costs causing affordability and access issues as well as funding for state schools to maintain quality education.
- 9) ***Privacy***. The public is increasing concerned about the loss or theft of personal information on private or government systems, and the costs of identity theft.
- 10) ***Obesity***. There is significantly more interest than ever before in banning trans fats and requiring disclosure of nutrition information.

III. 2006 State Enactments on Commercial Surety

This final section of the SFAA Annual Report contains a comprehensive state-by-state listing of new laws affecting commercial surety that were enacted in 2006. As SFAA members generally are most interested in new bond enactments and any reduction or elimination of existing bond requirements, SFAA publishes a monthly summary of those enactments on its website so that members will have prompt notice of these enactments and the effective dates. 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 SFAA members separately.

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

ALABAMA

HB 49—Uniform Trust Code

HB 49 enacts the Uniform Trust Code in Alabama. The following language, which impacts on the trustee bond, is included:

- (c) A trustee shall give bond to secure performance of the trustee's duties only if the court finds that a bond is needed to protect the interests of the beneficiaries or is required by the terms of the trust and the court has not dispensed with the requirement.
- (d) The court may specify the amount of a bond, its liabilities, and whether sureties are necessary. The court may modify or terminate a bond at any time.

In addition, this bill removes a provision requiring that if the trust estate is moved to another state or jurisdiction, than the persons requesting the moving of the estate must post a surety bond and the new trustee must post a surety bond, valued at double the amount of the trust estate.

HB 754—Appeal Bonds

Previously, any business, trade or profession that was sued by the municipality and is enjoined from operating could post a bond to dissolve the temporary restraining order or preliminary injunction. HB 754 exempts a respondent with a net worth of \$25,000 or less from posting such

a bond. Furthermore, a business licensee appealing a ruling concerning the business license tax does not have to post a superseded bond if his/her net worth was less than \$20,000.

SB 41—Professional Employer Organizations

SB 41 regulates professional employer organizations (PEOs). The bill provides that a “covered employee is not, solely as the result of being a covered employee of a PEO, an employee of the PEO for purposes of general liability insurance, employment practices liability insurance, fidelity bonds, surety bonds, employer's liability which is not covered by workers' compensation, or liquor liability insurance carried by the professional employer organization, unless the covered employees are included by specific reference in the PEO agreement and applicable prearranged employment contract, insurance contract or bond.” In addition, the director of the Professional Employer Organization Registration Administrative Trust Fund and the State Treasurer, who would be the trustee and custodian of the Fund, respectively, would have to post bonds. This clarification of the insurance coverage for PEO employees is based on model legislation that has been enacted in several states.

ALASKA

HB 392—Public Officials

HB 392 creates regional solid waste management authorities. The Authority must maintain a fidelity bond for its board of directors and each officer responsible for the accounts and finances of the Authority.

HB 3001—Lease Expense

HB 3001 excludes amounts paid to indemnify the State as a part of lease expenditures for oil and gas producers. The new law also provides that the costs of obtaining insurance or surety bonds from a third-party insurer or surety are not excluded under this provision.

ARKANSAS—Not in Session in 2006

ARIZONA

HB 2622—Motor Vehicles

The new law increases from \$25,000 to \$100,000 the bond for third party providers of motor vehicle registrations and renewals. Arizona permits motor vehicle registration and renewal by phone or Internet through private contractors.

SB 1276—Wine Shipment and Production Tax Bonds

SB1276 requires domestic farm wineries to file a bond if they are producing 20,000 bottles or less within a calendar year and making deliveries or sales by telephone, mail, fax or catalogue, through the Internet or by other means. The law was amended to meet the standards set forth in the 2005 U.S. Supreme Court ruling in *Granholm v. Heald*, which now allows small wineries to ship its product out of state. In Arizona, the State has chosen to require a bond for small domestic farm wineries, conditioned on the payment of all taxes, penalties and any other obligations under the law. The Department of Liquor Licenses and Control fixes the amount of the bond required of the domestic farm winery and may increase or decrease the amount at any time. The bonds must be equivalent to two times the winery's estimated monthly tax and the total amount for the bonds may not be less than \$500. A domestic farm winery is exempt from

the requirements if it made its payments on time for any taxes required by the existing law for twelve consecutive months immediately preceding the current month.

CALIFORNIA

HB 339—Uniform Limited Partnership Act of 2008

HB 339 enacts the Uniform Limited Partnership Act. The new law contains procedures for the dissolution of a limited partnership; some partners may purchase the interests of other partners with cash for their “fair market value.” If the partners cannot reach an agreement on “fair market value,” the new law provides that the court may stay dissolution proceedings so long as a surety bond is posted. The bond must be sufficient to cover the estimated “reasonable expenses” plus attorney’s fees of the moving parties. Three neutral appraisers are then selected to determine the value of the interests. After the value is determined, the purchasing parties must make payment for the partnership interests within the time limits that are specified in the decree. If payment is not made, then the court is to enter a judgment against the purchasing parties and the surety or sureties on the bond for the amount of the expenses plus attorney’s fees of the moving parties.

HB 630—Immigration Consultants

HB 630, as introduced, would have required sureties to give 30 days notice of the cancellation of the bond to either the city attorney or the district attorney in the county of the principal office of an immigration consultant. A violation of these provisions would have resulted in a fine of up to \$10,000. The bill was amended and these provisions were deleted. The new law only contains additional regulatory requirements for immigration consultants.

HB 751—Financial Aid Purveyors—VETOED

HB 751 would have required purveyors of private college financial aid services to be licensed and bonded. Such a purveyor would have had to file a bond with the California Student Aid Commission (CSAC) of at least \$50,000, from a corporate surety authorized to do business in the State, before engaging in the business of providing any services. The total aggregate liability on the bond would be limited to \$50,000. The bond would have been in favor of, and payable to, the State of California, for the benefit of any resident of California damaged by financial aid and scholarship fraud that the purveyor committed. The bill contained definitions of persons covered under its provisions, as well as a list of personas and entities excluded from coverage.

Governor Schwarzenegger vetoed this bill. In his veto message, the Governor stated that the bill did not provide the appropriate method to address the unscrupulous behavior of purveyors of useless scholarship and financial aid information. The Governor rejected the bill because the expertise of the CSAC relates to financial aid and it is not a regulatory or enforcement body.

HB 1363—Omnibus Conservatorship and Guardianship Reform Act of 2006

HB 1363 amends existing law concerning the bond from conservators and guardians of an estate. Existing determinants of the bond amount include the value of the personal property of the estate, the probable annual gross income of the property of the estate, the sum of the probable annual gross payments from the federal and state government programs for which the ward or conservatee is eligible, and any other public entitlements of the ward or conservatee. The new law requires that on or after January 1, 2008, the bond amount also will include the amount of reasonable costs of making any recovery from the bond, including attorney’s fees and costs. The

new law also requires the Judicial Council to adopt a rule of court on or before January 1, 2008, to implement this provision.

HB 2001—Cigarette and Tobacco Products

HB 2001 repeals the sunset provisions in the law requiring licensing and security deposits from all distributors of cigarettes and tobacco products. Existing law requires all distributors to be licensed and to furnish a \$1,000 security deposit. Existing law also requires distributors, which defer payments for stamps and meter register settings and choose to make them in two monthly payments, to post a security deposit of at least 50 percent and no more than twice the amount of the tax stamps and meter register settings. The new law requires the minimum amount of the security deposit for these payments to be 70%, with the maximum amount being twice the tax stamps and meter settings. Security deposits may be made in cash, a cash equivalent or a surety bond.

HB 2073—Home Improvement Contractors

HB 2073 excludes the sale, installation and servicing of fire alarm systems sold in connection with a home alarm system from the requirements of current law that govern home improvement contractors, when the costs of making the fire alarm system operable do not exceed \$500. Current law requires home improvement contractors to be licensed, and a homeowner or tenant may require a home improvement contractor to have a performance and payment bond. Notice of the bond that may be required must be contained in the contract.

HB 2343—Milk Producers Security Trust Fund

HB 2343 amends existing law concerning the Milk Producers Security Trust Fund (fund), which protects milk producers (producers) against the loss of payment for bulk milk. Under the existing law, the Secretary of State is authorized to collect security charges until the value of the fund is approximately 110% percent of the dollar amount of the total purchases of milk paid for and received in a single month by the milk handler who has the largest payment obligation to producers for that month.

The new law provides that the security charges are to be collected only until January 1, 2007, and requires instead that the fund be maintained at \$30,000,000 and that “acceptable securities” be posted. After January 1, 2007, if the fund falls below \$30,000,000, the Secretary may resume collecting security charges from all handlers making purchases of milk who have posted acceptable securities. The new law defines “acceptable security” as a surety bond from an admitted surety insurer, deposits of government securities, a cash deposit, a letter of credit, escrow account or other form of performance guarantee acceptable to the Secretary and meeting the requirements as acceptable security. Failure to provide acceptable securities as required disqualifies any shipments to the handlers from coverage under the fund. Also, handlers who fail to post acceptable securities or any required additional acceptable securities also may be subject to cancellation, suspension, non-renewal or placement of conditions on the handler’s license.

HB 2914—Architecture Services

HB 2914 amends existing law, which requires limited liability partnerships providing architectural services to maintain insurance policies or securities for payment of any liabilities that arise from claims based on acts, errors, or omissions of the partnership. The securities may be in a trust or bank escrow, cash, bank certificates of deposit, United States Treasury obligations, bank letters of credit, or bonds of insurance or surety companies. The amount must

be sufficient for a claim of at least \$100,000, multiplied by the number of licensees performing professional services on behalf of the partnership. The total aggregate limit of liability under the insurance policy or the amount of security for partnerships with five or fewer licensees performing professional services must be a minimum of \$500,000 and cannot exceed \$5,000,000 for all partnerships under existing law. The new law provides, however, that after January 1, 2008, the total aggregate limit of liability under the insurance policy or the amount of security for those partnerships with five or fewer licensees is increased to \$1,000,000. For partnerships with more than five licensees, the policy or securities increase to an additional \$100,000 for each additional licensee, up to the \$5,000,000 maximum. The bill also extends the repeal date of this law from January 1, 2007, to January 1, 2012.

HB 3020—Time Share Developments

HB 3020 amends existing law concerning bonding for timeshare developments. Currently, developers must furnish a surety bond, cash deposit, letter of credit, or alternate assurance acceptable to the Real Estate Commissioner (Commissioner) in order to assure the fulfillment of the developer's obligations. The new law authorizes the Commissioner to determine the amount of assurance necessary, but that amount is still subject to the maximum amount set in existing law, which limits the amount of the assurance to the lesser of 50% of the anticipated cost of operation and maintenance of the time-share plan for an operational period of one year or 100% of the assessments attributed to the total amount of unsold time-share interests owned by the developer under the law. The new law provides that the amount of assurance may be adjusted annually, as approved by the Commissioner, but not by more than the lesser of 50% of the anticipated cost of operation and maintenance of the time-share plan for an operational period of one year or 100% of the assessments attributed to the total amount of unsold time-share interests owned by the developer.

SB 201—Lease Termination

SB 201 requires a form of financial assurance upon the termination of a lease for a marine finfish aquaculture. Existing law requires that upon termination of the lease, all structures must be removed at the lessee's expense, to the satisfaction of the Fish and Game Commission, or the State will remove the remaining structures at the lessee's expense. Under the new law, a surety bond is one of the forms of assurance accepted by the Commission to ensure the satisfaction of the lease requirements.

SB 263—Travel Agents

SB 263 regulates "sellers of travel discount programs," (program) which are membership or benefit programs providing discounted travel services and transportation prices not generally available to the public. Anyone selling such a program must register as a seller of travel, pay a \$150 fee, and maintain a surety bond for \$100,000 from a surety company admitted to do business in the State. A copy of the bond must be filed with the Secretary of State, and a copy must be given to the Attorney General. The bond must be in favor of the State for the benefit of purchasers of the program who are harmed by a violation of the new law, the seller's misrepresentation or misapplication of funds or the failure of the seller to comply with the terms of the program.

SB 1475 and 1476—Dangerous Drug Wholesalers

SB 1475 amends existing law that requires both resident and non-resident applicants for a license as a wholesaler of dangerous drugs to post a bond for \$100,000 to secure any administrative

finer. The new law exempts wholesalers that are government owned and operated from the bonding and other requirements of resident wholesalers. SB 1476 amends the same provisions for both resident and non-resident wholesalers such that the law, which would have expired on January 1, 2011, would not expire until January 1, 2015.

SB 1481—Uniform Commercial Code

SB 148 amends California's existing Commercial Code to conform to the Uniform Commercial Code of the National Conference of Commissioners on Uniform State Law. Among the several general revisions, a surety has been further defined to include any "other secondary obligor" in addition to the existing definition as a guarantor.

SB 1758—Adoption Facilitators

SB 1758 as originally drafted would have increased the bond required of adoption facilitators from \$10,000 to \$50,000; but as amended and enacted, the bill raises the bond to \$25,000. The new law also requires that the bond be from a corporate surety admitted to do business in the State and be payable to the State of California, whereas prior law did not make such specifications. Adoption facilitators are required to replenish the bond when there is a recovery made from it, or file a new bond if the existing bond cannot be replenished. Either of these actions must be taken before the adoption facilitator could conduct any further business. The new law also requires the adoption facilitator to notify the State Department of Social Services (Department) within 30 days if the bond is renewed and of any change of name, address, telephone number or agent for service of process. The new law requires the Department to post on its Internet Web site information that shows if an adoption facilitator is in compliance with the registration and bond requirements. The law requires the Department to establish and adopt regulations to create a statewide registration process for adoption facilitators and to require adoption facilitators to post a bond.

COLORADO

HB 1161—Mortgage Brokers

The new law requires mortgage brokers to maintain a \$25,000 bond. As originally drafted, the bill would have required a \$100,000 bond or errors & omissions insurance.

HB 1294—Re-builders Certificate of Title

The new law provides that applicants for a re-builder's certificate of title to motor vehicle must post a bond or other security if they are unable to prove title to a motor vehicle. The amount of the bond is twice the value of the vehicle.

CONNECTICUT

HB 5846—Homemaker-companion agencies

The new law requires homemaker-companion agencies to be licensed and bonded. The amount of the new bond is not specified in the law. Such agencies provide non-medical supervisory services for the health and safety of individuals in their homes.

SB 57—Enforcement of Child Support

Under existing law, state courts may order persons responsible for paying child support to post a bond to assure that they will appear in court and make such payments on time. The bond is

forfeited if they fail to meet these obligations. The new law amends the child support provisions to distribute the bond amounts according to the distribution formula under the federal welfare law. Previously, the proceeds of the bond went to the custodial parent or to the State if the family had received state assistance.

SB 391—Home Heating Oil Dealers

The new law expands the application of the existing law for home heating oil dealers to home heating propane gas dealers. The law requires those who enter into prepaid contracts or capped-price-per-gallon contracts to obtain futures contracts for 75% of the amount of oil promised or to post a bond equal to at least 50% of the funds received.

SB 562—Gas Hearth Installers

The new law permits the Commissioner of the Department of Consumer Protection to establish limited contractor and journeyman gas hearth installer licenses. Home service contractors may not perform gas hearth work after July 1, 2008, without such a license. The Commissioner is given authority to set the terms and conditions of the licensing by regulation.

DELAWARE

HB 430—Debt Management Services

HB 430 requires debt management service providers (providers) to be licensed and bonded. The minimum amount of the bond is \$50,000, but the Attorney General has the authority to determine the principal sum of the bond, on the basis of the actual dollar value of the licensee's business, the dollar value of the licensee's trust accounts and any other criteria that the Attorney General may determine is necessary. The bond covers actual damages for any wrongful act, omission, default or injury that the provider causes, but excludes claims made by business creditors, third-party service providers, agents or the provider's employees. Surety claims must be paid to the Attorney General for the credit of the State Consumer Protection Trust Fund within 90 days of receiving a claim or the amount is subject to daily interest penalties. The total liability however, not including interest accrued, may not exceed the penal sum of the bond. Providers have 30 days to notify the Attorney General of any amendments or a change in surety company.

The bond may be cancelled with 30 days written notice to the Attorney General. Sureties are required to notify the Attorney General if the surety receives a claim against a licensed provider's bond and may not pay the claim unless the Attorney General instructs them to do so. The Attorney General has two years from the effective date of cancellation of the bond to file any claims with the insurer. Also, the Attorney General has the authority to assist any individual in enforcing a judgment made against a surety bond or other form a security.

Irrevocable letters of credit are accepted in lieu of a surety bond and must meet the same requirements of the bond.

DISTRICT OF COLUMBIA

LB 102—Security Agencies License Bond

LB 102 establishes the Security Officer Advisory Commission for the District of Columbia and requires security agencies to obtain licenses, post bonds and maintain liability insurance. The

bond is conditioned on the applicant's faithful and honest conduct and is for the benefit of any person injured by any wrongful act of the agency. The amount of the bond is \$50,000 for an individual and \$100,000 for a firm. The total liability of the surety may not exceed the penal sum of the bond. If a surety cancels or terminates the licensee's bond or if it is forfeited, the surety must immediately notify the Mayor of Washington DC. Failure to notify the Mayor leaves the bond in effect until the Mayor receives notice.

LB 710—Digital Inclusion Act of 2006

LB 710 enacts new law authorizes the Mayor of Washington, D.C. to enter into franchise agreements to allow telecommunications carriers to attach antennae to District-owned buildings and poles and to use any other internet-related telecommunications assets in exchange for providing internet service to low income, "digitally disadvantaged" areas of the District. The Mayor must require each franchisee to furnish a performance bond in a sufficient amount to guarantee the provision of the package of services for digitally disadvantaged residents. LB 710 is similar to LB 857 passed in July 2006, however that bill was a temporary emergency act, while LB 710 makes the law permanent.

FLORIDA

HB 1—Slot Machine Operators

HB 1 requires a slot machine licensee to post a \$2 million surety bond for his/her first year of operation. Thereafter, the bond has to approximate "the anticipated state revenues from the licensee's slot machine operation," but in no case be less than \$2 million.

HB 167—Movers Bonds

HB 167 would require household movers to maintain liability insurance of \$10,000 per shipment. A mover that operates two or fewer vehicles could choose to post a \$25,000 performance bond or certificate of deposit instead of maintaining liability insurance. A moving broker -- a person who arranges moving services for compensation -- would have to maintain a \$25,000 performance bond or certificate of deposit.

HB 841—Appeal Bonds

The new Florida law limits appeal bonds in all civil cases, except class actions, to \$50 million, with the amount to be increased annually to reflect changes in the Consumer Price Index. The courts can reduce the amount of the bond in the interests of justice and for good cause shown, except if there is insurance or indemnification in the case. The appellee may engage in discovery to determine if the appellant is dissipating or diverting assets. As originally drafted, the bill included a separate cap for 'small businesses.' The bill would have provided that if the appellant was an individual or independently owned and operated business with 400 or fewer employees, the appeal bond could not exceed 5% of the appellant's net assets or \$1 million in the aggregate.

HB 1207—Public Officials

HB 1207 creates the Indian River Mosquito Control District, which will be operated by three commissioners. Each commissioner will have to post a \$5,000 bond.

HB 1245—Public Officials

HB 1245 requires each of the seven members of the governing board of the North Broward Hospital District to post a \$5,000 bond.

HB 1361—Self-Insurance Fund

HB 1361 allows two or more state non-profit corporations to form a self-insurance fund for purposes of spreading the liabilities of its group members for any property-casualty risk or surety insurance. The fund must have annual premiums in excess of \$5 million, use a qualified actuary to set rates and loss reserves and receive at least 75% of its revenues from the local, state or federal government.

HB 1413—Public Officials

The new law creates the Argyle Fire District, which would be operated by five commissioners. Each commissioner would have to post a \$5,000 bond. The treasurer would have to post a \$10,000 bond.

HB 1483—Public Officials

HB 1483 creates the Grove Community District. The board of the district could require the treasurer to post a bond. Bidders on contracts let by the board also could be required to post bonds.

HB 1559—Public Officials

HB 1559 creates the Brevard County Viera Stewardship District. The treasurer of the district must post a bond in an amount and with terms and conditions acceptable to the board of directors.

HB 1629—Public Officials

HB 1629 creates the Gainesville-Alachua County Regional Airport Authority. The secretary-treasurer and other officers and employees of the Authority would have to post surety bonds.

HB 7079—Mobile Home Dealers

HB 7079 amends the existing law regarding the protection trust fund for mobile home and recreational vehicle dealers or brokers. The new law clarifies the provisions for claims that can be made against the trust fund when a claim cannot be made against the surety, the dealer or the broker. The new law provides that the claimant may seek recovery from the trust fund when the dealer or the broker has a pending bankruptcy proceeding and the claimant has filed a claim in that proceeding, the dealer or broker cannot be found in the State or the business has closed. The new law also revises the provisions for claims against the surety, allowing the claimant to seek recovery from the trust fund when a claimant's lawsuit against the surety is stayed or discharged in the surety's current bankruptcy proceeding or if a lawsuit against the surety is prohibited due to its pending bankruptcy claim. Provisions also have been made in the new law so that the claimant may seek recovery from the trust fund when the surety is found not to be liable due to prior payment of valid claims against the bond in an amount equal to, or greater than, the face amount of the applicable bond. A claim cannot be made against the trust fund if the claimant has recovered an amount that is greater than or equal to the total amount of the loss, from the surety under the revised provisions of the new law. The new law also provides that the \$25,000 payment ceiling per mobile home or recreational vehicle from the trust fund now includes any payments received from a claim against the surety bond or any expenses, including attorney's fees.

SB 256—Private School Bonds

SB 256 modifies the requirements for private schools to be eligible to participate in the John M. McKay Scholarship. Previously, private schools had to demonstrate fiscal soundness by providing a statement by a certified public accountant confirming that the private school had sufficient capital or credit to operate the school for the upcoming year. In lieu of such a statement, a surety bond or letter of credit for the amount equal to the scholarship funds for any quarter may be filed with the department. The new law requires a surety bond or letter of credit. The statement from a certified public accountant is no longer acceptable.

SB 659—Public Officials

SB 659 creates a new charter for the City of Madison. The officers and employees of the city must post surety or fidelity bonds in such amounts and upon such terms and conditions as the city council requires.

SB 1170—Trust Code

SB 1170 enacts the Uniform Trust Act. The new law provides that a trustee only is required to furnish a bond to secure the performance of his or her duties when the court decides it is necessary to protect the interests of the beneficiaries. The bond also may be required if it is in the terms of the trust and the court has not dispensed with this requirement. The court has the authority to determine the amount of the bond and the terms of the trustee's liability. Also, the court may modify or terminate the bond at any time. Even if the trustee resigns, any liability of the trustee or of the sureties on the bond for the acts and omissions of the trustee is not discharged or affected by the trustee's resignation.

GEORGIA

HB 276—Installers of Ignition Interlock Devices

Under the new law, installers of ignition interlock devices must post a \$10,000 surety bond for the protection of the contractual rights of individuals. The law provides that the aggregate liability of the surety shall not exceed \$20,000 per location and that the surety may write a single bond for all locations separately licensed by the same individual. The bond can be cancelled with 30 days' notice.

HB 1075—Used Car Dealers

HB 1075 raises the value of the bond required from used car dealers from \$20,000 to \$35,000

HB 1177—Bond Threshold

HB 1177 allows the Department of Transportation (DOT), on projects that exceed \$300 million, to make a determination that 100% bonds are not reasonably available. The DOT must require performance and payment bonds of not less than \$300 million and protect the balance of construction costs with a combination of letters of credit and corporate guarantees. SFAA member company representatives and staff assisted in crafting this legislation.

HB 1248—Wine Retailers

HB 1248 removes a \$500 bond requirement for wine retailers. The bond for general alcohol retailers would remain in place.

HB 1321—Public Officials

HB 1321 incorporates the City of Johns Creek. Officers and employees of the city are required to post surety or fidelity bonds in such amounts and upon such terms and conditions as the city council requires.

HB 1470—Public Officials

HB 1470 creates the charter for the City of Milton. The officers and employees of the city must post surety or fidelity bonds in such amounts and upon such terms and conditions as the city council requires. HB 1477 is identical to HB 1470, except it is for the City of Darien. HB 1478 is identical to HB 1470, except it is for the City of Demorest. HB 1559 is identical to HB 1470, except it is for the City of Guyton. HB 1620 is identical to HB 1470, except it is for the City of Lithonia.

HB 1481—Public Officials

HB 1481 creates the Board of Commissioners for Bartow County. The chairman and each commissioner must post a \$10,000 bond.

SB 380—Public Officials

SB 380 would create the Agricultural Commodities Commission for Equines. Anyone handling funds of the Commission would have to post a bond in an amount to be determined by the Commissioner.

SB 505—Mortgage Brokers

The new law exempts a mortgage broker or mortgage lender from being licensed and bonded if the broker or lender has an exclusive contract with any person that is a wholly-owned subsidiary of a financial holding company or bank holding company, savings bank holding company or thrift holding company, which meets certain requirements including the provision of bonds. Such a company must post the lesser of a \$50,000 bond per person or a \$1 million bond. Existing law requires individual mortgage brokers to post a \$50,000 bond and mortgage lenders to post a \$1 million bond.

SB 609—Public Officials

SB 609 is identical to HB 1470, but for the City of Hampton.

SB 659—Public Officials

SB 659 is identical to HB 1470, but for the City of Madison.

HAWAII

HB 3250—Appeal Bonds

The new law limits appeal bonds to \$25 million regardless of the amount of the judgment. For “small business concerns,” as that term is defined in Hawaii law, an appeal bond cannot be more than \$1 million.

SB 2143/HB 2973—Money Transmitters

The new law requires money transmitters to post a \$1,000 bond or alternate security. The bond could be increased to a maximum value of \$500,000 depending on the financial condition of the licensee. Claimants against the licensee, as well as the State, may bring claims against the bond.

IDAHO

HB 603—Utility Vehicle Dealers

HB 603 requires utility type vehicle dealers to post a \$10,000 bond. Under current law, motor vehicle dealers must post a \$20,000 bond, except that dealers who exclusively sell motorcycles, motor scooters, ATVs or snow machines must post a \$10,000 bond. This bill defines utility type vehicles as recreational vehicles designed for travel on unpaved roads.

SB 1326—Court Bonds

SB 1326 allows a court to require a foreign guardian or conservator to post a bond.

ILLINOIS

HB 4147—Depository Institutions

HB 4147 creates the Central Illinois Economic Development Authority. Banks serving as the depository for the Authority's money are required to post a surety bond equal to the maximum amount expected to be on deposit at any one time.

SB 17—Public Officials

SB 17 creates the Southern Illinois Economic Development Authority. The depositories designated by the Authority shall be bonded in an amount equal to the maximum sum expected to be on deposit at any one time.

SB 861—Private Business and Vocational Schools

SB 861 amends the Private Business and Vocational Schools Act to allow a certificate of deposit to be used in lieu of the surety bond required under current law, but requires that the certificate of deposit to be replaced by a bond after licensure. Existing law requires a \$100,000 bond for licensure as a private business or vocational school to ensure the faithful performance of all contracts and agreements for students, their parents, guardians or sponsors under current law. The new law provides that a certificate of deposit may be obtained before January 1, 2007, in the same amount as the surety bond and subject to the same conditions of the law. The deposit must be payable to the Board and in accordance with its terms set prior to approving the use of a certificate of deposit. Within 180 days of licensure, the certificate of deposit must be replaced with a surety bond that meets the requirements of the law. The license will be revoked if the applicant fails to replace the deposit with the surety bond.

The same conditions for obtaining a certificate of deposit in lieu of a surety bond also apply to the surety bond required for obtaining a permit to be a sales representative of an Illinois private business and vocational school, whether the sales representative is located in Illinois or elsewhere. Current law requires each sales representative to post a continuous surety bond for the penal sum of \$2,000, for the protection of the contractual rights, which include any losses to the students, their parents, sponsors or guardians that results from fraud or misrepresentation that the sales representative uses. Under exceptional circumstances, the Superintendent of Education may increase the penal sum of the bond to \$10,000. Failure to replace a certificate of deposit with a surety bond within the 180 days provided in the new law results in the revocation of the permit for a sales representative as well.

INDIANA

HB 1016—Wine Seller Tax Bonds

HB 1016 requires a direct wine seller to post a bond.

HB 1097—Discount Medical Card Programs

HB 1097 requires discount medical card program organizations to maintain a surety bond or deposit valued at a minimum of \$35,000.

HB 1114—Credit Services Organization

HB 1114 raises the value of the bond required from a credit services organization from \$10,000 to \$25,000.

HB 1134—Treasurers Bond

HB 1134 requires the treasurer of a school's extracurricular fund to post a bond if s/he controls more than \$300.

HB 1257—School Bonds

HB 1257 raises the value of the bond required from postsecondary proprietary educational institutions, which have no annual gross tuition charges from the previous year, from \$5,000 to \$25,000. The bill, however, removes a requirement for such schools to post a bond based on the amount of the previous year's tuition. In addition, the bill requires schools with annual gross tuition charges greater than \$250,000 to post a \$50,000 bond. Previously, this requirement only applied to schools with annual gross tuition charges greater than \$500,000. Finally, the amount of the balances are increased that need to be placed in the Career College Student Assurance Fund before a school could stop posting a bond.

HB 1392—Agent for Service of Process

SFAA drafted amendments and AIA state counsel successfully sought an amendment to this bill to solve the long-standing service of process issue for sureties in Indiana. The new law requires foreign insurance companies the write surety bonds to appoint the Commissioner as the agent for service of process. Prior to this session, Indiana and Nebraska were the only two states that did not have a state official to receive service of process for purpose of 31 USC 3903, such that SFAA members had to file an agent for service of process in the federal district courts of those states if they wrote any bond required or permitted for the federal government. The specific language in the new law is as follows:

(a) A foreign or alien insurance company that provides a surety bond that is required or permitted under the law of the United States shall execute a power of attorney in a form prescribed by the department irrevocably appointing the commissioner as the insurance company's agent for service of process in an action on the surety bond if the:

(1) surety bond was provided in Indiana; and

(2) service of process under this section is in addition to another method of service of process authorized by law or court rule.

(b) Service of process under this Section shall have the same effect as personal service on the insurance company.

(c) Upon receipt of process described in this section, the commissioner shall forward the process to the resident agent designated by the insurance company under section 4(7) of this chapter.

(d) The commissioner may adopt rules under IC4-22-2 to establish reasonable fees for the acceptance of process described in this section. Fees collected under rules adopted under this subsection must be deposited in the department of insurance fund established by IC 27-1-3-28.

Furthermore, HB 1392 allows schools to pool resources for insurance. The trust that would be created as a result would have to maintain a fidelity bond to cover people responsible for the trust.

SB 11—Loan Broker Appeal Bond

SB 11 requires a loan broker who is appealing a decision of the Securities Commissioner to post a \$500 bond or other security.

SB 362—Release

Under current law, if a sheriff collects the full amount of a tax warrant that has been partially or fully paid by a person's surety, then "the sheriff may not release the judgment until the surety's rights under the judgment have been satisfied by the person." SB 362 removes this clause relating to the sheriff's release of the judgment.

IOWA

HB 2786—Lien Release

HB 2786 relates to mortgage foreclosures. The new law permits the plaintiff, or any person guaranteeing the plaintiff's mortgage, to post a bond to release the claim against the property of any person claiming a lien superior to that of the plaintiff in the property. The bond must be in an amount of not less than twice the amount of the claim. The claimant has 12 months from the notice of the bond and release to file a claim against the bond, or the claimant is barred from any further remedy. In a successful action on the bond, the court may award reasonable attorneys' fees.

SB 2353—Debt Management Service Providers

SB 2353 raises the penal sum of the bond required from debt management service providers from \$10,000 per office to \$25,000 per office. It also raises the debt management service provider license fee from \$50 to \$250. The bill also raises the amount of the bond required from a mortgage broker and a mortgage banker from \$25,000 to \$50,000.

SB 2364—Service of Process

As originally drafted, SB 2364, the Iowa Insurance Department's legislative package, contained a provision to repeal the requirement that the Insurance Commissioner act as agent for service of process for insurers. The Department bill would have caused SFAA members to begin filing an agent for service of process in the Iowa federal district courts. SFAA worked with AIA to craft an amendment that designates the Secretary of State to receive service of process for sureties for purposes of 31 USC 9306, to the extent the surety cannot otherwise be served in Iowa. Insurers otherwise file a resident agent for licensure. At the eleventh hour, the trial lawyers complained about the Department no longer accepting service of process, so the provisions requiring the Commissioner to accept service of process were added back to the Insurance Code in addition to the new option of allowing the Secretary of State to accept service of process. The Insurance

Department is now permitted to charge a reasonable fee for acting as agent for service of process.

SB 2394—Manufactured and Mobile Homes

SB 2394 requires both manufactured and mobile home retailers to file a \$50,000 surety bond with the Building Code Commissioner in connection with licensure. A corporate surety licensed in the State must execute the surety bond. The bond is conditioned upon the applicant complying with the law regulating the business of the retailer. The bond serves as indemnification for any person dealing or transacting business with the retailer in connection with a manufactured or mobile home from a loss resulting from the retailer’s failure to comply with the law. This includes, but is not limited to, losses resulting from the retailer’s failure to furnish a proper and valid title to the manufactured or mobile home involved in the transaction.

KANSAS

HB 2607—Trustee Bond

HB 2607 allows a court to require a surety bond from one petitioning the court to order the trustee of a revocable trust to exercise or refrain from exercising the trustee’s authority, to require the trustee give an account or to issue such other orders as the court finds will be in the best interests of the settler when the settler becomes incapacitated.

HB 2645—Vehicle Title Service Agents

HB 2645 requires vehicle title service agents to post a \$25,000 bond or alternate security.

HB 2874—Money Transmitters

HB 2874 raises the value of the bond required from money transmitters from a minimum of \$50,000 to a minimum of \$200,000. The maximum value is raised from \$200,000 to \$500,000.

SB 253—Advertising Bond

The new law repeals the authority of the state secretary of transportation to require bonding in connection with the license for outdoor advertising.

SB 355—Appeal Bonds

SB 355 changes appellate bond requirements. Previously, a bond was required when appealing from a district magistrate judge to a district judge or from a district court to an appellate court. This bill allows the court to require such a bond, but it is not mandatory.

SB 442—Public Officials

Existing law concerning surety bonds required for county auditors has been amended, deleting the words “at least two sufficient sureties” that were required for the bond and replacing the phrase with “a sufficient surety,” such that multiple sureties are no longer required.

SB 575—Public Officials

SB 575 requires the treasurer of the Topeka/Shawnee County Riverfront Authority to post a bond.

KENTUCKY

HB 462—Mortgage Loans

HB 462 raises the minimum value of the bond required from mortgage loan companies from \$100,000 to \$250,000. Initially, the bill would also have raised the minimum value of the bond required from mortgage loan brokers from \$50,000 to \$100,000. This provision, however, has been removed through amendment.

HB 738—Livestock

HB 738 brings Kentucky law in line with federal law relating to livestock packers. Currently, in Kentucky, stockyard owners must post a bond valued between \$2,000 and \$10,000. The 2004 Federal Packers and Stockyards Act (7 USC sections 181 – 229b) prohibits states from enforcing further bonding provisions than the ones enumerated under federal law, which requires bonds from those whose livestock purchases exceed \$500,000 annually. HB 738 requires the owner or operator of any stockyard, market agency or livestock dealer, who is not required to file a surety bond under requirements in the Packers and Stockyards Act, to post a bond.

SB 107—Viatical Settlement Brokers

SB 107 requires viatical settlement brokers to maintain liability insurance for \$20,000 per occurrence and \$100,000 in the aggregate, or post \$20,000 cash or bond.

SB 123—Money Transmitters

SB 123 requires money transmitters to post a bond or other security valued between \$500,000 and \$5 million.

SB 237—Well Operators

SB 237 defines the value of the blanket bond that oil and gas well operators must post. The bond could range in value from \$10,000 to \$100,000, depending on the number of wells covered and the type of operator.

LOUISIANA

HB 616—Credit Repair Services

HB 616 raises the value of the bond required from credit repair service organizations from \$25,000 to \$100,000.

HB 1130/SB 665—Development Districts

HB 1130 creates local and regional economic development districts. These districts are operated on the basis of a municipality, parish or multiple parishes. Bond insurance, a letter of credit or a surety bond may be used by the district as a method of credit enhancement that is allowed by general law for any obligation.

HB 1137—Telemarketers

HB 1137 deletes the terms “shall also be required” from existing law and replaces the phrase with the word “may.” The new law now states that telemarketers “may” maintain a surety bond in the amount of \$20,000, in addition to the existing requirements for registration and payment of the necessary fees in order to obtain a copy of Louisiana’s “do not call” list. The bond that telemarketers may maintain is for guaranteeing the payment of any administrative penalties for

violation of the do not call requirements. There is no explanation in the amendment as to what is required of a telemarketer that does not post the bond.

HB 1377—Used Automotive and Recreational Vehicle Dealers

HB 1377 requires registered used motor vehicle dealers to be licensed and to post a bond of \$20,000, which is used for penalties and hearing costs regarding proper licenses, tags and titles. The bond indemnifies anyone who suffers a related loss due to failures to comply with the laws regarding sales tax, licenses, tags or titles, any person who suffers any loss, damages, and expenses due to failure to deliver title and any failure to pay all taxes, licenses and registration fees. The term of the bond is for the period of the license and a new bond or a continuation certificate must be given at the beginning of the next license period. The aggregate liability of the surety cannot exceed the penal sum of the bond in any one year. If the bond is cancelled at any time during the license period, the license will be revoked upon the date of the cancellation, unless a new bond is given before that date. The same bond is required for those who sell recreational products and it is subject to the same conditions. In any action regarding marine dealers, either party may file an appeal to the Louisiana Recreational and Used Motor Vehicle Commission’s decision, as long as a surety bond is posted to compensate the prevailing party for compliance with the Commission’s decision.

HB 1384—Public Adjuster

HB 1384 requires public adjusters to be licensed and to post a surety bond or an irrevocable letter of credit in a minimum amount of \$50,000 as evidence of financial responsibility. The bond cannot be terminated without 30 days prior written notice to the Commissioner of Insurance.

SB 266—Tax Stamp Waivers for Tobacco Dealers

SB 266 amends the existing law by deleting the prohibition against tobacco dealers who buy tax stamps on credit from applying for a waiver of the required bond. The law’s existing waiver application procedures remain in place for those in good standing and also for those found delinquent in their tax payments.

SB 383—Surety Definition

SB 383 amends the Uniform Commercial Code with several general revisions. Among them a surety has been further defined to include any “other secondary obligor” in addition to the existing definition as a guarantor.

SB 578—Investment Advisers

SB 578 includes “investment adviser representative” in an existing exemption which is applicable to an investment adviser and a principal from posting the license bond required for dealers in the securities industry. Investment advisers, principals, and now investment adviser representatives, must follow the same license application procedures required for dealers, without the requirement of a bond, under existing law.

SB 645/HB 514—Public Officials

SB 645 designates the “clerk of court” as parish recorder for the Orleans parish, and gives the recorder authority over the parish’s notaries public and their surety bonds. Each must be listed in the notary’s report with the expiration date, the names and the addresses of the sureties on the bond. The parish recorder must keep track of all the bonds and their expiration dates and has the

authority and discretion to test the adequacy of the sureties on the bond through the district court for all notaries required to furnish one. The new law does not change the requirements for bonding for notaries.

SB 647/HB 656—Public Officials

SB 647 amends the law for parish assessors to consolidate the board of assessors for the Orleans parish into a single official and subject him or her to the existing requirements of the laws governing this official in all other Louisiana parishes. The surety bond required for a parish assessor under existing law is \$3,000 per representative in the state legislature from the parish, limited to a total amount of \$10,000. The new law now requires the new assessor for Orleans parish to post this bond. Multiple sureties may be used, at a minimum amount of \$200 each, but must total the required amount. Additionally, under the prior law, each member of the board of assessors in Orleans parish was required to post a surety bond of \$5,000 to the State. This bond also is required of the single assessor for Orleans parish under the new law, but he or she is only required to post one bond for \$5,000. Multiple sureties also may be used, at a minimum amount of \$500, so long as the total meets the required \$5,000.

MAINE

HB 1318—Payroll Processors

HB 1318 changes the payroll processor bond in Maine. All payroll processors previously were required to bond the highest volume of insurance premiums and tax payments in a three-month period in the previous calendar year, or \$50,000, whichever is greater, with a \$500,000 overall cap on the bond. HB 1318 allows small and unsupervised financial organizations to post a \$10,000 bond and then look to a state recovery trust fund for the rest of the required bond protection. Payroll processors must remit an initial assessment to the recovery trust, and they are subject to an annual assessment thereafter of 1% of their required bond amount.

HB 1493—Home Heating Oil Dealers

HB 1493 requires home heating oil, kerosene or liquefied petroleum gas dealers entering into prepaid heat oil contracts with consumers to have either futures contracts for at least 75% of the heating oil committed to consumers, a surety bond in an amount equal to half the funds paid to the dealer or a letter of credit in an amount not less than 100% of the funds paid to the dealer. The amount of the futures contracts or the surety bond may be reduced when the fuel is delivered.

SB 684—Professional Fund Raisers

SB 684 eliminates a \$25,000 surety bond previously required from professional fund raising counsels.

MARYLAND

HB 1620/SB 974—Lease Agreements

HB 1620/SB 974 allows a tenant to purchase a surety bond in lieu of the security deposit. The tenant also may purchase the bond in addition to giving a security deposit. This new law contains several provisions governing the terms and requirements of the surety bond, which specifically outline the rights of the tenant and the landlord.

The landlord is prohibited from requiring a surety bond in lieu of the security deposit but also is not required to consent to a tenant's purchase of a surety bond. The surety bond protects the landlord from nonpayment of rent, damages due to breach of lease and any excessive damages by the tenant or the tenant's family, guests or employees, etc. to the leased property and anything belonging to it. The surety bond may be used to pay the landlord's claim for these damages; however, in the case of a breach of lease, only the actual amount of damages caused by the breach is owed. The surety bond does not represent the amount of liquidated damages from a breach of lease. Under the new law, as with the existing law for security deposits, the surety bond may not be in excess of two months rent per dwelling unit. If both a bond and a deposit are given, the same rule applies. In any case of an excessive amount charged, the tenant has the right to recover up to three times the extra amount charged and reasonable attorney's fees. The tenant also has the right to be informed in writing that payment for the surety bond is non-refundable. If the landlord does not accept the bond after its purchase, or if the tenant does not enter into the lease, the premium and any other charges for the bond are to be returned to the tenant. Also, the tenant must be informed that the surety bond is protection for the landlord, and the tenant is still responsible for all unpaid rent and all damages.

Even though the tenant may have purchased a surety bond, he or she retains the right to make direct payments to the landlord or to require the use of any security deposit paid before the landlord may make a claim against the surety. If the landlord accepts this payment and it fully satisfies the amount of the damages, then the landlord forfeits the right to any claim against the surety that the tenant's payment or any amount that was deducted from the security deposit has covered. The surety itself may not make any direct or indirect payments to the landlord, except as specified in the new law. Before a landlord may make a claim against the surety, the landlord must mail the tenant a written notice of damages ten days before doing so; and the tenant has ten days from receiving it to make any disputes of the damages listed. If the claim is disputed, the surety may not report it to a credit-reporting agency until a judgment is issued. Existing laws for the security deposit regarding inspection of the premises and required notices also apply to the surety bond.

In claims brought against the tenant by the surety, the tenant has all rights and defenses he or she would have against a landlord's claim and the tenant is only liable for damages that he or she would have had to pay the landlord. Should the landlord's interest in the leased property be sold or transferred, the new landlord must accept the tenant's surety bond and security deposit and may not require an additional security deposit during the current lease term. Also, at any lease renewal, the new landlord may not require a surety bond or security deposit in addition to an existing bond or deposit that would total an amount greater than two months rent per unit, or the new landlord is subject to the same penalties for charging an excessive amount. If a surety makes a claim against a tenant without a reasonable basis, then the court may award the tenant up to three times the amount claimed, plus reasonable attorney's fees. A lease agreement may not waive any provision of the new law.

MASSACHUSETTS—*No Enactments in 2006*

MICHIGAN

HB 5324 and 5328—Money Transmitters

HB 5328 requires money transmission services to post a bond of at least \$500,000 up to a maximum amount of \$1,500,000 in connection with licensure. The total liability of the surety is not to exceed the maximum amount of the bond. The Commissioner of the Office of Financial and Insurance Services determines the amount of the bond based on the number of locations where the applicant will provide these services and/or the number of delegates performing these services in the State for the applicant. The applicant must have a net worth over \$100,000 to obtain a license. If the applicant will have any other locations or delegates, an additional \$25,000 in net worth is required per location or authorized delegate, up to \$1,000,000, whichever amount is lower.

HB 6014 and 6016—Ecclesiastical Corporations

HB 6014 authorizes ecclesiastical corporations to organize and operate a religious college, provided that such corporations meet the criteria set forth in the new law. Among the many requirements, the ecclesiastical corporation is required to provide a surety bond annually to the Department of Labor and Economic Growth (Department). The bond must be conditioned to provide indemnification to any student suffering loss if he or she could not complete an educational program at the religious college because of its closing. Expiration of the bond will be set on June 30 following the date of issuance and the corporation would have to submit proof of renewal for an additional one-year period to the Department before the date of expiration. The amount of the bond will have to be either the number of students enrolled in the religious college multiplied by \$200, or \$5,000 whichever is higher.

The new law's effect was conditioned on the passage of HB 6016, which has been signed by the governor. The bill provides an exemption for such religious colleges in HB 6014 from existing law which authorizes the state Department of Education to provide minimum requirements for non-incorporated privately operated institutions which offer degrees, diplomas or certificates based on education beyond high school.

SB 1290—Driver Education Provider and Instruction Act

SB 1290 requires driver education providers to be licensed and bonded. Under the new law, applicants may be licensed as a driver education provider for one or more of adults, teens, or truck drivers. A surety bond is required for an original or renewal application for certification. The amount of the bond for a driver education provider for teens or adults must be \$20,000 if the provider has 999 or fewer students in a calendar year, and \$40,000, if the provider has 1,000 or more students in a calendar year. In order to provide truck driver education, the surety bond must be for \$50,000. A separate bond is required for each type of certification — adult, teen or truck driver. The driver education provider also must maintain bodily injury and property damage liability insurance on a motor vehicle used in driver education course instruction in the amount of \$100,000 for bodily injury to or the death of one person in one accident; \$300,000 for bodily injury to or the death of two or more persons in one accident; and \$50,000 for damage to the property of others in one accident.

The surety bond is for the protection of the students' contractual rights, providing indemnification or reimbursement for any student, financing agency, or governmental agency for monetary loss through fraud, cheating, or misrepresentation in the conduct of the provider's

business caused by the provider or by an employee, agent, instructor, or salesperson of the provider. The aggregate liability of the surety cannot exceed the penal sum of the bond. The surety may cancel the bond if it gives 30 days written or electronic notice to the Secretary of State (Secretary), and is not liable for losses after the effective date of the cancellation. When the Secretary receives written or electronic notice that a driver education provider's surety bond or insurance coverage has been canceled, the Secretary must notify the provider that its license will be automatically canceled unless a new surety bond or a new insurance certificate is sent to the Secretary within 30 days. Failure to submit a new surety bond or insurance certificate within 30 days results in the automatic cancellation of the provider's license. Finally, for any change or termination in the surety bond or insurance policy, the provider must send notice to the Secretary before the expiration date of the bond or policy.

SB 1418, 1420, and 1421—Scrap Tire Collection Site Bond

SB 1418, 1420, and 1421, as passed in the Senate, collectively would amend the existing bond requirement for scrap tire collection sites. The definition of a “collection site” would be changed to include tire chips so that the law would cover any portion of a tire that was stored. Existing law requires the owner of a collection site to maintain a performance bond in the amount of at least \$25,000 per quarter acre of the outdoor tire storage area, and \$2.00 per square foot of tire storage area in a building. If the collection site has fewer than 2,500 tires, then the bond must not exceed \$2,500. There is an exemption from the bond requirement if the owner of the collection site has been in compliance with all the requirements for the site for one year and the site contains no more than the sum of the highest number of scrap tires accumulated at the site during the previous year, plus 10% of the amount of scrap tires that were removed to an end user during the previous year. The bills instead would apply this exemption to a collection site if at least 75% of the commodity, by weight or volume, stored at the site during each calendar year were recycled or used for resource recovery during that year. This would make the exemption consistent with another existing exemption to the bond requirement for collection site in which the tire chips are no larger than two inches by two inches and 75% of such tires stored are removed to a market during the year. The bills would retain that exemption as well, modifying it with a change in the definition of the site to a “commodity storage site” to distinguish such sites.

MINNESOTA

HB 2514—Uniform Securities Act

Minnesota has adopted the Uniform Securities Act, which authorizes the adoption of rules to require broker-dealers or investment advisers to register and obtain insurance, or post a bond or other form of security if either has custody or discretionary authority over a client’s securities or funds. Under the new law, the bond would have a maximum amount of \$25,000. The new law also authorizes the Commissioner of Commerce to determine the requirements of the insurance, bond or securities to be obtained or posted. The new law also prohibits the requirement of obtaining insurance, or posting a bond or securities for broker-dealers who meet the net capital requirements set forth in the new law, or investment advisers whose minimum financial requirements exceed the amounts required under the new law or rules to be adopted. The law also prohibits a broker-dealer’s agent and an investment adviser representative from having custody of client funds or securities unless each is under the supervision of a registered broker-dealer or investment adviser respectively.

HB 4162—Boxing Promoters

HB 4162 requires boxing promoters and others in the professional boxing industry to be licensed. The new law only requires boxing promoters to deposit a cash bond or a surety bond in an amount to be determined by the State Boxing Commission before a promoter may obtain a license. The bond is conditioned on the promoter's compliance with the requirements of the law and any rules adopted under it concerning the performance of his or her duties.

SB 2743/HB 3110—Voting Systems

Current law in Minnesota requires a vendor of voting systems to provide a \$5,000 vendor bond, along with a certification that the equipment for sale is in accordance with Minnesota election laws. It also requires a performance bond to guarantee that any electronic voting systems provided work properly and that any related election services are in accordance with the State's election laws. Under SB 2743, if, after a canvass of the voting precincts and the State, the error for the election results is greater than one half of one percent for the canvass of the precincts and/or the State and it is a proven result of the electronic voting machine or the vendor, then the vendor must forfeit the vendor bond and the performance bond required under the existing law.

MISSISSIPPI

HB 1663—Public Officials

HB 1663 creates the Panola County Utility District. Contracts entered into by the District exceeding \$20,000 have to be bonded.

SB 2328—Highway Patrol

SB 2328 repeals a provision requiring a surety bond of at least \$2,000 from each highway patrolman.

SB 2439—Third Party Payment Processors

The new law requires third-party payment processors to post a \$50,000 surety bond or other security for each debt management service provider it contracts with, with a maximum of \$150,000.

SB 2742—Alarm Contractors

SB 2742 enacts the Mississippi Residential Electronic Protection Licensing Act. The new law requires alarm contractors to post a \$300,000 general liability and errors and omissions policy or surety bond in order to obtain a license.

SB 2943—Public Officials

SB 2943 requires each director on the Board of Directors of the Mississippi Gulf Coast region Utility Board to post surety bonds in the sum of not less than \$50,000. The bill also requires each director on the Board of Directors for Hancock County Utility Authority to post surety bonds in the sum of not less than \$25,000. The treasurer of the aforementioned is required to post a surety bond in the sum of not less than \$100,000.

MISSOURI

HB 1149—Water Treatment Facilities

HB 1149 expands the applicability of existing law concerning water treatment facilities to include “facilities that utilize innovative technology for wastewater treatment.” Existing law allows the Director of the Department of Natural Resources or the Clean Water Commission to require the a bond for compliance with all of the Commission’s rules and regulations in any issuance of a construction permit. Existing law provides that the amount of the bond should be whatever is sufficient to ensure compliance. The new law defines “innovative technology for wastewater treatment facilities” as “a completely new and generally unproven technology ... that ... testing or theory suggest has environmental, efficiency, and cost benefits beyond the standard technologies.” Bonds are not required for designs that a federal agency or another state’s environmental regulatory agency has approved.

SB 892—Financial Institution Bonds

SB 892 increases the amount of the surety bond required to obtain a license to provide financial services from \$25,000 to \$100,000. The bond must cover the applicant, his agents and subagents who provide services, which include the receipt, transmission, and payment of money connected to the sale or issuance of checks, under existing law. The new law requires the bond to cover the costs of the Division of Finance when it remedies a breach of the licensee’s obligations and any examination costs that the licensee owes and has not paid to the Division. The bond amount required upon license renewal to be five times the highest outstanding balance from the previous year with a minimum amount of \$100,000 and a maximum amount of \$1 million, for licensees selling any instrument of payment or credit cards. For licensees performing money transmissions, the requirement for a bond at license renewal is five times the greatest amount transmitted in a single day during the previous year, with the same minimum and maximum requirements of \$100,000 and \$1 million respectively for the amount of the bond. The licensee also is liable now for the costs of any special examination from the Division of Finance.

MONTANA—Not in Session in 2006

NEBRASKA

LB 860—Public Officials

LB 860 provides that the treasurer of an educational service unit may give equivalent insurance coverage as an alternative to the corporate surety bond required under existing law. The surety bond is payable to the Educational Service Unit Board (Board), and is conditioned on the treasurer’s faithful performance of the treasurer’s duties, as well as the safekeeping and proper disbursement of all Board funds. The Board also has the authority to increase the amount of the surety bond at any time as deemed necessary. The amended law subjects the equivalent insurance coverage to these same requirements.

LB 875—Agent Bonds

LB 875 amends the law concerning an insurer’s managing general agent (agent), which granted the Director of Insurance (Director) the authority to require a bond and an errors and omissions policy from an agent. This provision has been repealed and instead the new law provides that insurers must require their agent to obtain a surety bond of at least \$100,000, or 10% of the

agent's total annual written premium nationwide that the agent produced for the insurer during the prior calendar year, whichever is greater, but not to exceed \$500,000. The new law also provides, however, that the insurer may require the agent to obtain an errors and omissions policy.

LB 876—Mortgage Brokers

The new law raises the value of the surety bond required from mortgage bankers from \$50,000 to \$100,000.

NEVADA—*Not in Session in 2006*

NEW HAMPSHIRE

HB 1126—Mortgage Bankers

HB 1126 requires mortgage bankers to post a continuous surety bond for \$20,000 to maintain a license in New Hampshire.

SB 72—Public Adjusters

SB 72 raises the value of the bond required from public adjusters from not less than \$10,000 to at least \$20,000.

SB 391—Insurance Administrators

SB 391 amends the existing law regarding the bonding of insurance administrators. Prior law did not require administrators to maintain a bond when their business was restricted to benefit plans fully insured by authorized insurers or legitimate employee benefit plans that an employer or an employee organization, or both, had established because the Employee Security Income Act of 1974 preempted New Hampshire insurance laws for those plans. Under the new law, a bond is required for licensed administrators or license applicants when they administer benefit plans that are fully insured by an insurer not licensed in New Hampshire or by multiple welfare arrangements or for any church self-insured plans. The bond must cover persons and individuals in New Hampshire who have paid premiums, insurance charges or any other type of payment to the administrator's business. The bond must be in the amount of \$100,000 or 10% of the daily client account balance in the previous calendar year, and cannot exceed \$1,000,000. In the event a bond cannot be obtained, the law provides for other securities to be posted as long as they guarantee the same amount required for the bond.

SB 394—Trust Companies

SB 394 enacts the Trust Modernization and Competitiveness Act. Under the new law, a trust company must post securities or a surety bond to defray costs in the event of the company's failure. The Bank Commissioner determines the amount of the bond, but it cannot be more than \$1,000,000. Should the company go into receivership, the bond may be reduced to cash to defray the costs of the process and is paid out by the Commissioner. The surety bond must be issued by a commissioner-approved and state licensed surety company with one of the three highest ratings by a national rating service.

NEW JERSEY

SB 204—Fund Raising Counsel

SB 204 changes the obligations of a surety bond for a fund raising counsel and independent paid fundraisers. Previously, such fundraisers had to post a bond that was “payable to the Attorney General for the benefit of any person who may have a cause of action against the principal obligor of the bond for any violation of this act.” This bill makes the bond also be “for the purpose of satisfying any assessment against the principal obligor of the bond for any such violation.”

SB 1321—New Jersey Real Estate Timeshare Act

SB 1321 requires time-share developers to register all timeshare plans with the New Jersey Real Estate Commission that have accommodations located in the State or that are sold to any resident of the State. The new law gives purchasers a period in which to cancel their contracts and requires the developer to keep deposits with an escrow agent during this cancellation period. If the developer sells a timeshare when the construction is not completed, the funds of that sale must remain in the escrow account after the expiration of the cancellation period. In lieu of the escrow account, a surety bond, U.S. bond, or irrevocable letter of credit, or other acceptable financial assurance may be deposited with the Commission. The amount of any financial assurance must be equal to or more than the amount which would be placed in escrow during the cancellation period, or equal to the cost to complete the incomplete property, whichever is less. The amount of financial assurance may not be less than the amount of funds that would otherwise be placed in escrow during the cancellation period.

SB 2710—Recreational Vehicle Dealers

SB 2710 requires recreational vehicle or used motor vehicle dealers that are issued permits for off site sales to post a \$500,000 surety bond or a notarized copy of a certificate of self-insurance.

NEW MEXICO

HB 22—Oil and Gas Wells

Existing law concerning the requirements for financial assurance to be provided in connection with plugging an oil or gas well have been amended to allow a well-specific insurance policy in addition to the existing option of cash, an irrevocable letter of credit or a surety bond.

HB 33—Public Official

HB 33 removes a requirement for the treasurer of the chiropractic board to post a \$5,000 bond.

NEW YORK

HB 11451—Farm Product Dealers

HB 11451 amends existing law to raise the amount of the bond or letter of credit required in connection with licensure as a farm product dealer. Prior law required that the bond or letter of credit be at a minimum \$3,000 and no more than \$200,000. The new law increases the maximum amount to \$400,000.

SB 5387—Tax Refund Bond

SB 5837 authorizes the city of Rye, in Westchester County, to adopt laws to impose an occupancy tax on hotels in addition to any tax that the State imposes. Anyone disputing the tax and filing for a refund must deposit an amount equal to the penalties due under local laws, along with a surety bond from a state-licensed surety. The state Supreme Court determines the amount of the surety bond, under the condition that, if the proceeding is dismissed or if the tax is confirmed, the petitioner must pay all of the costs and charges accrued during the prosecution of the proceeding. The petitioner has the option of posting a bond including the amount of the taxes, the interest and penalties he or she has stated in his or her determination, in addition to the costs and charges accrued during the prosecution of the proceeding, rather than making a deposit. Any person whose request for a refund of new tax has been denied may dispute the decision, and a surety bond also is required for this proceeding.

SB 5463—Apparel Manufacturers and Contractors

SB 5463 amends existing the labor laws that require a manufacturer or contractor to register with the Commissioner of Labor (Commissioner). Under the new law, the Commissioner may require a surety bond as a condition of continued registration after a second violation of existing labor laws concerning minimum wage, overtime compensation, unemployment insurance coverage, child labor and industrial homework, instead of revoking registration. The surety bond is for the benefit of production employees damaged by any failure of a manufacturer or a contractor to pay wages or benefits, or for failure to comply with any other provisions in the labor laws. The Commissioner determines the penal sum and form of the bond. The penal sum is what the Commissioner determines to be necessary to protect production employees but may not exceed \$2500 per production employee. The new law requires manufacturers to provide documentation that any surety bond, which may be required under the new law, has been paid according to the new law.

The new law also expands the existing powers of the special task force for the apparel industry to investigate businesses for such violations, giving it authority to assess and collect penalties, and to confiscate property for violations, in addition to the existing and new civil and administrative penalties. Such violations lead to the potential necessity of posting a surety bond in order to maintain registration as a manufacturer or contractor.

SB 6542—Real Estate Tax

SB 6542 provides that anyone disputing collection of the tax and filing for a refund in Tompkins County, under the new tax imposed on any conveyance of real property, must deposit an amount equal to the amount of the tax and any penalties due under local laws, along with a surety bond from a state-licensed surety. The state supreme court (lower courts) determine the amount of the surety bond, under the condition that if the proceeding is dismissed or if the tax is confirmed, the petitioner must pay all of the costs and charges accrued during the prosecution of the proceeding. The petitioner has the option of posting a bond including the amount of the taxes, the interest and penalties he or she has stated in his or her determination, in addition to the costs and charges accrued during the prosecution of the proceeding, rather than making a deposit. Any person whose request for a refund of new tax has been denied may dispute the decision, and a surety bond also is required for this proceeding.

SB 7328—Real Estate Tax

SB 7328 is similar to SB 6542, except that it establishes a community preservation fund for the town of Red Hook for the purposes of preserving town character through property acquisitions and improvements, which will be funded by a new real estate transfer tax, among other methods. As with SB 6542, the tax may be reviewed under the same procedures, requiring anyone disputing the tax to file a surety bond in the amount as described for SB 6542.

SB 6852—Motor Vehicle Tax

SB 6852 amends the existing tax law to authorize a “qualified person” to collect the existing tax due for the sale or the use of a motor vehicle, when they register the motor vehicle. Under the new law, a “qualified person” is someone who has registered as required under existing law, but is not a vendor. A qualified person is authorized to register vehicles or accept applications for a certificate of title required under existing vehicle and traffic laws. The new law requires that such persons file a surety bond, or other acceptable security, with either the Taxation and Finance Commissioner or the Commissioner of Motor Vehicles, in the amount that the Taxation and Finance Commissioner determines is necessary to secure the payment of taxes, interest or penalties due or any other money collected that is considered a tax. The surety must be authorized to do business in the State and approved by the Superintendent of Insurance.

NORTH CAROLINA

HB 1388—Alien Debt Collectors License Bond

HB 1388 amends existing law to allow the Insurance Commissioner to give permits to alien debt collection agencies. Existing law provides that a debt collection agency (agency) must file a bond with the Insurance Commissioner to obtain a permit. For the initial application of a U.S. agency, the amount of the bond is \$10,000, to be continuous throughout the period of the permit and must remain in effect until all of the collector’s transactions are accounted for. To renew the permit, the bond amount changes, setting the minimum amount at \$10,000, with a maximum amount of \$75,000. The amount of the bond for renewal is calculated as the total collections paid directly to the agency, subtracting any commissions earned by the agency on those collections for the calendar year ending prior to the date of application, and then that amount is multiplied by one-sixth. The amount of the surety bond required under existing law for a U.S. agency is to be double for an alien debt collection agency under the new law.

SB 615/HB 675—Cancellation and Non-renewal of Motor Vehicle Bonds

SB 615 adds provisions on cancellation and non-renewal of motor vehicle bonds. A surety may cancel a bond before the next premium date without the licensee’s prior written consent for the following reasons: 1) the bond premiums have not been paid or 2) for any act or omission of the licensee or his or her representative that is a material misrepresentation or nondisclosure of a material fact when obtaining the surety bond. The surety is required to give 30 days written notice by certified mail to the Commissioner of Insurance, and the licensee at his or her last known address, and must state the reason. Should the amount due be paid before the effective date, the cancellation does not take effect. If the surety is cancelled, it does not affect any liability that is incurred or accrued prior to the termination of the 30-day notice period. The new law also provides that a surety is allowed to refuse to renew a surety bond so long as it gives the notice of non-renewal to the licensee by certified mail to his or her the last known address and to the Commissioner. This notice must be sent 30 days prior to the premium anniversary date of

the surety bond. Termination of the surety bond by non-renewal does not affect any liability that is incurred or accrued prior to the premium anniversary date of the surety bond.

NORTH DAKOTA—*Not in Session in 2006*

OHIO

HB 390—Motor Fuel Dealers

HB 390 provides that only surety companies acceptable to the Tax Commissioner may furnish a tax bond for motor fuel dealers, as required under existing law. Cash deposits in the same amount determined for the surety bond are acceptable as well. The new law repeals a provision of the prior law that allowed a person with real property with twice the face value of the surety bond to act as a surety.

HB 416—Trust Code

HB 416 enacts a new trust code based on the Uniform Trust Code of the National Conferences of Commissioners on Uniform State Laws (NCCUSL). The new law states that trustees are required to furnish a bond to secure the performance of their duties only when the court decides that it is necessary to protect the interests of the beneficiaries. A bond also may be required if it is in the terms of the trust and the court has not dispensed of this requirement. The court also has the authority to determine the amount of the bond and the terms of the trustee's liability and may modify or terminate the bond at any time. Regulated financial-service institutions qualified for trust business in Ohio do not need to give a bond, even if terms of the trust require one. Even if the trustee resigns, any liability of the trustee or of the sureties on the bond for the acts and omissions of the trustee is not discharged or affected by the trustee's resignation.

HB 530—Public Officials/State Bond Guarantee Program

HB 530 requires each executive director appointed by the Superintendent of Professional Regulation to serve on a board or commission to give bond in the amount the governor prescribes. Furthermore, the bill allows the Director of Development to support one fiscal year of bond guarantees for surety companies bonding minority businesses. The bill, however, removes a \$10,000 bond requirement from each voting member of the Ohio Athletic Commission. Furthermore, a requirement that the executive secretary of the veterinary medical licensing board give a bond was removed

SB 185—Title Insurance Agents

SB 185 removes the requirement of a fidelity bond for the title insurance agent to guarantee his or her compliance with the law. The new law allows the superintendent to adopt rules in the state code regarding coverage for these insurance agents, including determining the minimum amount, the terms and the conditions of the policy. The new provision in the law requires that the agents have "coverage that protects the parties...against theft, misappropriation, fraud, or any other failure to properly disburse settlement, closing, or escrow funds." (Sec. 2953.23(B))

OKLAHOMA

SB 806—Body Piercing

SB 806 requires a surety bond in the amount of \$100,000 for all body piercing and tattoo operators.

SB 1084—Tobacco Taxes

Under the new law the amount of the bond required for an agent's or wholesaler's license for tobacco products is increased from \$1,000 to \$25,000. The bond secures payment of State taxes. The new law permits the surety to request to be released from liability to the State and that the release becomes effective 60 days after a written request has been made.

SB 1701—Re-builder Certificate

The new law requires motor vehicle re-builders to be licensed and to post a \$15,000 bond.

OREGON—Not in Session in 2006

PENNSYLVANIA

HB 1114—Appeal Bond

HB 1114 allows anyone to post a surety bond to contest the amount of money being assessed for the remediation of a waste tire pile.

HB 1826—Real Estate

HB 1826 allows surety bonds or letters of credit to be used, instead of placing funds in escrow, when purchasing or reserving real estate. The minimum amount of either instrument has to be \$1 million.

SB 660—Uniform Trust Act

SB 660 adopts the Uniform Trust Act. The new law includes the following model language:

- 1) A trustee shall give bond to secure performance of the trustee's duties only if the court finds that a bond is needed to protect the interests of the beneficiaries or is required by the terms of the trust and the court has not dispensed with the requirement.

- 2) The court may specify the amount of a bond, its liabilities, and whether sureties are necessary. The court may modify or terminate a bond at any time.

Additionally, the new law exempts a regulated financial-service institution qualified to do trust business in the State from bonding, even if required by the terms of the trust. Existing trust laws have been amended to conform to the Uniform Trust Act, in addition to abolishing the rule against perpetuities, and repealing the Pooled Trust Act passed in 2002.

RHODE ISLAND

HB 7120—Fuel Tax

HB 7120 is an appropriations act for 2007 that repeals the fuel tax bond that motor carriers were required to post in order to be licensed. Under the new law, the Tax Administrator now has discretion to require such a bond provided that it is consistent with the International Fuel Tax Agreement.

HB 7577/SB 2731—Debt Management Services

HB 7577/SB 2731 enacts the Uniform Debt-Management Services Act of the National Conference of Commissioners of Uniform State Law (NCCUSL). The new law requires providers of debt management services to be licensed and bonded. The amount of the bond under the new law is \$50,000, which replaces a \$20,000 bond required in prior law. The Director of the Department of Business Regulation may increase or decrease the required amount of the bond based on consideration of the financial condition, business experience, history of the provider's performance of debt-management service and the risk to individuals to determine the necessary amount of the bond. The new law requires the surety issuing the bond to be "A" rated from a nationally recognized rating service and licensed in the State. The bond runs to the State for the benefit of the state and individuals who sign agreements with the provider. Payment is conditioned on noncompliance with the law. The bond must be effect for an additional two years after the registrant stops performing debt-management services in Rhode Island. The new law allows a certificate of insurance, letter of credit or U.S. bonds in lieu of a surety bond. These alternates to a bond are subject to the same terms and conditions as the surety bond.

If the surety terminates the bond, another bond must be filed for \$50,000 or for an amount the Director requires. If there are claims against the bond, the provider must notify the Director and file a new or an additional bond.

SB 2877—Taxicab License Bonds

SB 2877 eliminates the option of a surety bond as evidence of financial responsibility for owners of taxicabs and/or limited public vehicles. The new law requires liability insurance only, in an amount increased from prior law. The new law also applies to jitney owners. Also, these owners now are placed under the authority of the Division of Public Utilities and Carriers rather than under the Division of Motor Vehicles, as provided under prior law.

SB 3101/HB 8152—Public Officials

SB 3101/HB 8152 reorganizes the Ponaganset Regional School District to include the towns of Glocester and Foster. The requirements in existing law for the bonding of the treasurer are included in the new provisions regarding the Regional District Committee.

SOUTH CAROLINA

HB 4532/SB 1034—Automobile Dealers and Wholesalers

HB 4532 increases the amount of a surety bond required for applicants for licenses as automobile dealers or wholesalers from \$15,000 to \$30,000. The new law also increases the limit of the total liability of the surety for the amount of the actual loss incurred to \$30,000, raised from the \$15,000 limit set in existing law for each bond.

SB 991—Trust Funds

SB 991 amends the prior law that required funds held in the trust department of a bank or a trust company, which are awaiting investment or distribution, to be secured by bonds. The new law allows these funds to be secured by additional methods such as collateral and irrevocable letters of credit, as long as the method of assurance meets all criteria of the State Treasurer for securing public funds.

SB 1287—Driver Training Schools

SB 1287 requires a surety bond for driver training schools in the amount of \$10,000 from a state licensed corporate surety. The new bond serves as indemnification for any loss or damage suffered by a person who has retained the licensed school's services. The bond also must be conditioned on compliance with the licensing laws for driver training schools.

SOUTH DAKOTA

SB 49—Discount Medical Plans

SB 49 requires discount medical plan organizations to post a \$20,000 bond.

SB 62—Uranium Exploration Permit Bonds

SB 62 modifies bonding requirements for uranium exploration permits. Previously, a bond guaranteeing the plugging of 10% of the test holes was required. This bill requires the bond to cover plugging all of the test holes. In addition, previously, in lieu of filing a bond for each exploration area, one could post a \$20,000 bond to cover all exploration statewide. This bill removes that provision.

SB 68—Trust Companies

SB 68 allows trust companies to purchase liability insurance instead of bonds. Previously, bonds were the only acceptable financial security.

TENNESSEE

HB 139/SB 413—Landfills

HB139 amends the procedures for performance bonds in the case of forfeiture. In lieu of any formal forfeiture procedures, when the parties agree to it, direct payment may be made to the department. The other regulations and requirements of the performance bond remain in place as well as the other acceptable forms of assurance.

HB 3028—Public Officials

HB 3028 allows city employees to get an insurance policy instead of posting surety or fidelity bonds.

HB 3859—Public Officials

HB 3859 requires officers and employees of the Town of Gibson to post fidelity and surety bonds. Bid bonds of 5% and 100% performance bonds are required on all public works contracts.

SB 3060—Special Deputies

SB 3060 allows resort area owners and management companies to employ private special deputies to provide security and law enforcement for residents and guests of the resort area and resort area property. Such deputies must provide financial responsibility with either a corporate surety bond or a liability insurance policy of no less than \$50,000.

HB 3676/SB 3983—Public Adjusters

HB 3676/SB 3983 enacts a license and bonding requirement for public adjusters, which is based on the new Model Public Adjuster Licensing Act of the National Association of Insurance Commissioners. A surety bond is required as evidence of financial responsibility in a minimum

amount of \$50,000. The bond must authorize the Commissioner of Insurance and Commerce to seek recovery on behalf of anyone suffering damages caused by the public adjuster. The bond may be terminated with 30 days notice to Commissioner and the licensee.

HB 4085—Depository Bonds

HB 4085 creates the Bolivar Energy Authority. A surety bond may be used to secure the deposits of all money of the Authority. The bond may be used in lieu of pledging securities for deposit or having the funds insured by a federal agency.

HB 4090/SB 4024—Public Officials

HB 4090/SB 4024 rewrites the existing charter for the city of Cowan. A fidelity bond or faithful performance bond in the form of a blanket bond is required for the mayor and every officer, agent and employee of the city who is responsible for the receipt, disbursement, custody or handling of money. The amount is determined by the city council, which also may require any official, agent or employee to furnish a bond. Individual bonds may be used when blanket bonds are not available. Any city officer or employee who knowingly engages in or authorizes a contract or expenditure in violation of the law, or receives a payment from either, is liable to the city for the amount paid or received. The sureties on the official's or employee's bonds also are liable for these amounts.

TEXAS—*Not in Session in 2006*

UTAH

HB 145—Public Officials

HB 145 repeals a requirement that the treasurer of the Grazing Advisory Board post a bond.

HB 291—Tax Bond

HB 291 reduces the minimum amount of a bond required to ensure tax collection from \$50,000 to \$25,000.

SB 79—Debt Management Services

SB 79 requires debt management service providers to post a \$100,000 bond or alternate security. The bond has to be issued by a company with a rating of at least "A." This bill is based on the new NCCUSL model act, but the value of the bond is higher than in the model legislation.

VERMONT

SB 150—Gas Tax Bond

The new law changes the time from September to November for the annual review and determination of the amount of the gas tax bond.

SB 158—Asset Locators

The new law requires asset locators to post a \$10,000 bond.

SB 228—Home Heating Oil Contracts

The new law requires home heating oil, kerosene or liquefied petroleum gas dealers entering into prepaid contracts to post a financial security or maintain futures contracts. If choosing to post a surety bond, the bond would have to be in an amount not less than 50% of the total amount of

funds paid to the dealer by consumers pursuant to prepaid heating oil, kerosene or liquefied petroleum gas contracts.

VIRGINIA

HB 693—Escrow Deposits

HB 693 allows a bond, letter of credit or cash to secure escrow deposits for time-share purchases. Previously, only a surety bond was permitted.

HB 812—Appeal Bonds

The new law removes the requirement for an appeal bond from a plaintiff in a civil case where the defendant has not asserted a counterclaim.

HB 906—Trusts

HB 906 alters the trust law relating to a trust for the care of an animal to specifically state that no surety bond is required from a trustee unless required by a court or the trust instrument.

HB 1039—Dangerous Dogs

The new law requires owners of dangerous dogs to maintain liability insurance of \$100,000. A surety bond may be provided in lieu of insurance.

HB 1275—Claims Practices

Under current law, when one sues his/her insurer to determine what coverage is available under their insurance policy or bond, to the extent the insurer is liable, the individual may recover attorneys' fees and other costs from the insurer. Originally, HB 1275 would have applied this provision only to insurance policies and not to bonds. This part of the bill was amended, however, and the bill as enacted applies to insurance policies and fidelity bonds.

SB 306—Motor Vehicle Dealers

The new law raises the value of the bond required from motor vehicle dealers from \$25,000 to \$50,000.

WASHINGTON

HB 2340—Mortgage Broker

Prior to the passage of this bill, a mortgage broker had to post a surety bond or other security valued between \$20,000 and \$60,000. HB 2340 only allows surety bonds to be posted to meet this financial assurance requirement.

HB 2776—Home Heating Oil Dealers

HB 2776 requires home heating fuel service contract providers to either insure the contracts for reimbursement or maintain a funded reserve and a financial security "having a value of not less than five percent of the gross consideration received, less claims paid, on the sale of the service contract for all service contracts issued and in force, but not less than ten thousand dollars."

HB 3185—Bond for Payment of Wages

HB 3185 allows the Director of the Department of Labor and Industries to order an employer to deliver property to the Director if the employer failed to adhere to wage laws. Alternately, a bond could be posted.

SB 6428—Manufacturers of Electronics

SB 6428 establishes a system to recycle electronics. Manufacturers of electronic products that participate in the plan could be required to post a performance bond or other financial security.

SB 6541—Appeal Bonds

The new law limits appeal bonds from master tobacco settlement agreement signatories to \$100 million.

WEST VIRGINIA

HB 4513—Workers Compensation

HB 4513 enacts new law concerning workers compensation, such that the Workers Compensation Commission has been terminated and all powers and duties that were previously assigned to the Commission now are assigned to the Insurance Commissioner. If an employer is in default as to the payments he or she owes to the workers compensation fund (Old Fund), instead of the Commissioner filing an action against the employer, he or she may file a surety bond for 150 percent of the total payments, interest and penalties due.

HB 4622—Bonds on Wells

HB 4622 lowers the value of the bond required for every well used for the introduction of liquids for the disposal of pollutants or the effluents emitted from \$10,000 to \$5,000. Similarly, a bond that could be required on coal bed methane wells is reduced from \$10,000 to \$5,000.

SB 673—Service Fees

SB 673 allows counties to impose service fees on people working within the county. Any special infrastructure project financed in whole or part with these fees has to be bonded if the cost exceeds \$25,000.

WISCONSIN—No Enactments in 2006

WYOMING

HB 10—Employer Wage and Tax Bond

Under current law, certain nonresident employers must post a surety bond or other security. HB 10 would allow these employers to pay an advance premium deposit in lieu of this bond.

HB 25—Animal Care

HB 25 creates a new law providing for the impoundment of cruelly treated animals. A peace officer, agent or officer of the Livestock Board may impound any animal suffering such treatment. Within ten days of impoundment, the animal's owner is required to post a surety bond with the circuit court in the county where the animal was impounded. The bond must cover the costs that the circuit court determines is sufficient to provide for the animal's board, care and diagnostic testing for at least 90 days, which includes the day on which the animal was impounded. After 90 days, when the bond expires, the owner may post a new bond for the same

amount described above to prevent the board from making a final determination for disposition of the animal. If the bond is not posted, the Board must determine the final disposition of the animal according to reasonable practices of humane treatment of animals. The bond may be drawn from to pay all costs from the first day of impoundment to final disposition; however, the law also provides that the owner is liable for all costs of final disposition.

SB 69—School Bonds

SB 69 requires private, degree granting post secondary institutions to post a bond of not more than \$10,000.