

The Surety Association of America

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MEMORANDUM

TO: Local Surety Associations

FROM: Dov Weinstein

DATE: February 3, 2006

SUBJECT: Legislative Report – January 2006

The SAA monthly legislative report lists new bills that were introduced since the last report, and updates the status of bills being tracked that had movement in the preceding month. This is intended to be a comprehensive federal and state-by-state report that assists members in getting information about, and being proactive on, legislation of importance. This monthly report is sent electronically to the GAAC and to the local surety associations. It is available to all SAA members on our website. The features of this report are:

- *Once posted on the website, there is a function that allows the user to navigate the contents of the report by state so that users can easily access and view only the states in which they have an interest;*
- *To assist users in sorting and utilizing the information, SAA staff lists enacted laws and bills awaiting the governor's signature at the top of each state's listing so that the user can skim through each state to see what has or is about to become final action;*
- *The monthly legislative report include a highlights feature, which gives SAA members an upfront summary of recent enactments of new bond enactments and reductions/eliminations of existing bond requirements.*

The SAA is coordinating with the AIA to take action on the following bills. SAA's positions are indicated by (-) for opposing/opposed, (=) for neutral and (+) for supporting/supported. If you have any questions, please do not hesitate to contact me.

Federal

****NEW LAW****

(=) HR 1815

(1/6/06 – Signed by President; PL 109-163)

As originally drafted, HR 1815 would have revised the Federal Acquisition Regulations to “include provisions that require the head of an executive agency, to the maximum extent practicable, to use commercially available online procurement services to purchase commercial items, including those procurement services that allow the agency to conduct reverse auctions.” This provision, however, has been excluded from the final language.

(+) HR 3351

(1/27/06- Referred to Senate Indian Affairs Committee)

HR 3351 would raise the amount of money available to the Indian Loan Guaranty and Insurance Fund from \$500 million to \$1.5 billion. This fund can be used to guarantee loans and surety bonds.

Alabama

(-) HB 49

(1/12/06 – Pending Third Reading)

HB 49, prefiled for 2006, would enact the Uniform Trust Code in Alabama. The following language, which impacts on the trustee bond, would be included:

- (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.

In addition, this bill would remove 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.

(-) SB 157

(1/19/06 – In Judiciary Committee)

SB 157 is similar to HB 49 described above.

(+) HB 87

(1/12/06 – Read Second Time)

HB 87 would regulate 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.

(+) SB 41 (1/19/06 – Referred to House Commerce Committee)
SB 41 is similar to HB 87 described above.

(+) HB 150 (1/10/06 – Referred to Tourism and Travel Committee)
HB 150 would require boxing promoters to post a performance bond. An additional performance bond could be required to obtain a match permit.

(+) HB 217 (1/10/06 – Referred to State Government Committee)
HB 217 would require those operating amusement rides to post a \$ 1 million bond, cash or securities, or a liability insurance policy.

(+) HB 239 (1/10/06 – Referred to Judiciary Committee)
HB 239 would allow a court to require an additional bond from a conservator, up to double the estimated value of the property in the estate.

(+) HB 293 (1/10/06 – Referred to Agriculture and Forestry Committee)
HB 293 would require off-road vehicle dealers to post a bond of at least \$5,000. In addition, a bond could be required from one registering such a vehicle, if ownership of the vehicle was uncertain.

(+) HB 304 (1/19/06 – Pending Third Reading)
HB 304 would require the Alabama Propane Education and Research Council to post fidelity bonds to protect its funds.

(+) SB 270 (1/19/06 – Read Second Time)
SB 270 is similar to HB 304 described above.

(+) HB 405 (1/17/06 – Referred to State Government Committee)
HB 405 would establish a Pre-need Funeral Consumer Protection Fund. Presently, sellers of pre-need funeral services must post a surety bond or place money into a trust. This requirement would not be changed. In addition, the bill would require a preconstruction trust to be established when a cemetery offers for sale space in a mausoleum or crypt prior to construction. Alternately, a performance bond could be posted.

(-) HB 507 (1/26/06 – Referred to Judiciary Committee)
HB 507 would change the value of the supersedeas bond required in an appeal of a final determination of taxes from double the amount owed to 125% of the amount owed. Furthermore, the bill would allow an irrevocable letter of credit or collateral to be posted instead of a bond.

(-) SB 356 (1/26/06 – Referred to Finance and Taxation Committee)
SB 356 is similar to HB 507 described above.

(+) SB 82 (1/19/06 – In Judiciary Committee)
Under SB 82, the owner of a dangerous dog could be required to post a surety bond valued up to \$100,000.

(+) HB 27 (1/10/06 – Referred to Judiciary Committee)
HB 27 is similar to SB 82 described above.

(+) SB 372 (1/26/06 – Referred to Economic Expansion Committee)
SB 372 would require auctioneers to post a bond.

Alaska

(+) HB 392 (1/25/06 – Referred to Regional Affairs Committee)
HB 392 would create regional solid waste management authorities. Board members and executive officers responsible for finances would have to post a fidelity bond.

Arizona

(+) HB 2383 (1/23/06 – Read Second Time)
HB 2383 would establish PACE, a Program for the All-inclusive medical Care of the Elderly. Performance bonds would be required from those contracting to be a PACE organization.

(=) HB 2443 (1/23/06 – Read Second Time)
HB 2443 would make indemnity agreements in construction contracts void but this would not apply to agreements for indemnification of a surety on a bond by its principal or indemnitors.

(+) HB 2676 (1/23/06 – Read Second Time)
HB 2676 would provide that in order for a private school to participate in a scholarship program for students with disabilities, it would have to demonstrate fiscal soundness by being in operation for at least one school year before participation in the program or by providing the Department of Education with a statement by a certified public accountant (CPA) that the private school is insured, and that the owners have sufficient capital or credit to operate the school for the upcoming year and to serve the number of pupils anticipated with expected revenues from tuition and other sources that may be reasonably expected. In lieu of a CPA statement, a surety bond or letter of credit for the amount equal to the scholarship monies for any quarter may be filed with the Department.

(+) SB 1098 (1/12/06 – Read Second Time)
SB 1098 would raise the value of the bond required from third-party motor vehicle registrants from \$25,000 to \$100,000. In addition, the bill would remove an exemption for title service companies that are bonded by the department of transportation from posting this bond.

California

****NEW LAW****

(+) SB 1026 (1/13/06 – Approved by Governor; Ch. 1, 2006 Statutes)
SB 1026 allows the Los Angeles County Metropolitan Transportation Authority to use design-build contractors until January 1, 2010. Payment and performance bonds are required.

(=) HB 397 **(1/9/06 – In Transportation Committee)**
Originally, HB 397 would have required a driving school owner to post a \$25,000 surety bond. This clause, however, has been removed from the bill.

(-) HB 630 **(1/19/06 – To Third Reading)**
HB 630 would require surety companies that issue bonds to immigration consultants to “notify either the city attorney where the immigration consultant maintains his or her principal office or the office of the district attorney of the county where the immigration consultant maintains his or her principal office within 30 days of the date that either of the following occurs:

(1) The immigration consultant's bond is canceled or is otherwise no longer in force and effect.

(2) The amount of the bond is reduced below the minimum amount required by this chapter. The notice sent by a corporate surety to an immigration consultant under Section 996.320 of the Code of Civil Procedure shall include a warning that the corporate surety is required to notify the office of the city attorney or the office of the district attorney if the bond is canceled or withdrawn.” A violation of these provisions could result in a fine of up to \$10,000.

(+) HB 1091 **(1/19/06 – Second Hearing)**
HB 1091 would require a discount health care program operator to maintain a surety bond of at least \$20,000.

(=) HB 1838 **(1/10/06 – Read First Time)**
HB 1838 would allow design-build contracts for transportation construction projects. Payment and performance bonds would be required.

(+) SB 1165 **(1/19/06 – To Committee)**
SB 1165 is similar to HB 1838 described above.

(+) SB 201 **(1/4/06 – Read Second Time in House)**
SB 201 would require those who engage in engage in marine finfish aquaculture to post a surety bond or other financial assurance.

(+) SB 371 **(1/23/06 – Read Second Time)**
SB 371 would allow for design-build contracts on Department of Transportation construction projects. In preparing a questionnaire to pre-qualify design-build entities, the Department would have to consult with surety companies. Design-build entities would have to disclose work completed by a surety within the previous five years. “Any design-build entity that is selected to design and build a project under this article shall possess or obtain sufficient bonding to cover the contract amount for non-design services, and errors and omission insurance coverage sufficient to cover all design, engineering, and architectural services provided in the contract. This section does not prohibit a general or engineering contractor from being designated the lead entity on a design-build project for the purposes of purchasing necessary bonding to cover the activities of the design-build entity.”

Colorado

(=) HB 1148 (1/16/06 – Assigned to Judiciary Committee)

HB 1148 would render void and unenforceable any indemnity provision in a construction agreement that requires a person or their surety or insurer to indemnify, insure, or defend in litigation another person against liability for damage arising out of death or bodily injury to persons or damage to property caused by the negligence or fault of the indemnitee or any third party under the control or supervision of the indemnitee. This provision would not affect any provision in a construction agreement that requires a person or the person's surety or insurer to indemnify another person against liability for damage, including but not limited to the reimbursement of attorney fees and costs, if provided for by contract or statute, arising out of death or bodily injury to persons or damage to property, but not for any amounts that are greater than that represented by the degree or percentage of negligence or fault attributable to the indemnitor or the indemnitor's agents, representative, subcontractors, or suppliers.

(+) HB 1161 (1/18/06 – Introduced)

HB 1161 would require mortgage brokers to post a \$100,000 bond or other security. Alternately, a mortgage broker could maintain errors and omissions insurance instead of posting the bond. SAA will work to change this bill to require both e&o and a surety bond since they provide different coverage.

(+) HB 1185 (1/26/06 – In Transportation and Energy Committee)

HB 1185 would allow an oil and gas operator to enter a surface owner's property if no surface use and compensation agreement was reached within 30 days of receiving notice of intent to enter the property. The operator would have to post a bond valued at \$25,000.

(+) SB 30 (1/11/06 – Assigned to Education Committee)

SB 30 would create the School Leadership Academy to recruit, train, and support school principals. Custodians of the Academy's money would have to post a surety bond.

Florida

****NEW LAW****

(+) HB 1 (1/4/06 – Approved by Governor; Chapter 2005-362)

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 (1/26/06 – In State Resources Council)

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, which is a person who arranges moving services for compensation, would have to maintain a \$25,000 performance bond or certificate of deposit.

(+) SB 244 (1/11/06 – In Banking and Insurance Committee)
SB 244 is similar to HB 167 described above.

(+) HB 343 (1/25/06 – In Finance and Tax Committee)
HB 343 would allow counties to establish special districts to provide services to seniors. A council would govern these districts. The chair of the council and any other member of the council who signs the council's checks would be required to post a surety bond of at least \$1,000 for every \$1 million or fraction thereof in the council's budget.

(-) HB 425 (1/27/06 – Pending Review of Committee Substitute)
HB 425 would enact the Uniform Trust Code in Florida. The bill contains the following language, which impacts the trustee bond:

- (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, the trustee's liabilities under the bond, and whether sureties are necessary. The court may modify or terminate a bond at any time.

(-) SB 1170 (1/11/06 – Referred to Judiciary Committee)
SB 1170 would enact the Uniform Trust Code and is similar to HB 425 described above.

(-) HB 517 (1/27/06 – On Insurance Committee Agenda)
HB 517, prefiled for 2006, would allow two or more nonprofit organizations to create a self-insurance fund, provided that the fund:

- (a) Has annual normal premiums in excess of \$5 million,
- (b) Requires for qualification that each participating member receive at least 75 percent of its revenues from local, state, or federal governmental sources,
- (c) Maintains a continuing program of excess insurance coverage and reserve evaluation to protect the financial stability of the fund in an amount and manner determined by a qualified, independent actuary,
- (d) Submits to the office annually an audited fiscal year-end financial statement by an independent certified public accountant within 6 months after the end of the fiscal year, and
- (e) Has a governing body that is comprised entirely of nonprofit organization officials.

(+) HB 759 (1/19/06 – Filed)
HB 759 would create the City of Ruskin. The city manager, city clerk, assistant city managers, department directors, and any other employees so designated by the administrative code would be required to post bonds.

(+) HB 937 (1/30/06 – Filed)
HB 937 would create the Pinecraft Lighting District, which would be operated by a board of five commissioners. Each commissioner would have to post a \$1,000 bond.

(+/-) SB 256

(1/24/06 – In Judiciary Committee)

SB 256 would modify the requirements for private schools to be eligible to participate in the John M. McKay Scholarship Program. Currently, private schools must “demonstrate fiscal soundness by being in operation for one school year or provide the Department of Education with a statement by a certified public accountant confirming that the private school” has sufficient insurance and capital or credit to operate the school for the upcoming year. “In lieu of a CPA 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.” This bill would require the school to be in operation for at least three years or obtain a surety bond or letter of credit. The CPA statement would no longer be acceptable. Furthermore, the bill would require that if a participating private school became subject to an action by the Department of Education, it would have to post a surety bond before receiving the next payment of scholarship monies, and for two additional years thereafter. Similar requirements would exist for private schools receiving scholarship money from eligible nonprofit scholarship-funding organizations. While SAA supports the more stringent bonding requirements contained in this bill, it opposes the adverse selection. The bill is similar to legislation that failed last year in Florida in which potential for adverse selection was even greater.

(-) SB 660

(1/26/06 – In Communications Committee)

Under current law, an owner of amusement rides must maintain a \$1 million insurance policy or surety bond. SB 660 would exclude government entities that self-insure or enter into risk management programs from this requirement.

(+) SB 1314

(1/10/06 – Filed)

SB 1314 would allow counties to establish special districts to provide services to seniors. A council would govern these districts. The chair of the council and any other member of the council who signs the council’s checks would be required to post a surety bond of at least \$1,000 for every \$1 million or fraction thereof in the council’s budget.

(+) SB 1528

(1/25/06 – Filed)

SB 1528 would require the owner or operator of a landfill not operated by the government to post financial security to cover closure costs.

Georgia

(+) HB 924

(1/9/06 – Second Reading)

HB 924 would incorporate the city of Milton. “The officers and employees of this city, both elected and appointed, shall execute such surety or fidelity bonds in such amounts and upon such terms and conditions as the city council shall from time to time require by ordinance or as may be provided by law.”

(+) HB 1072

(1/24/06 – Second Reading)

HB 1072 would incorporate the City of Riverside. Officers and employees of the city would have to post surety and fidelity bonds.

(+) HB 1075 **(1/25/06 – Read First Time)**
HB 1075 would raise the value of the bond required from used car dealers from \$20,000 to \$50,000.

(=) SB 414 **(1/12/06 – Read and Referred)**
SB 414 would create community improvement districts for rural Georgia. The treasurer of such a district could be required to post a bond. Bid bonds could be required on projects in excess of \$100,000.

(+) SB 447 **(1/25/06 – Read and Referred)**
SB 447 would establish the Georgia Blueberry Commission. Persons who handle the funds of the Commission would have to post a bond.

Hawaii

(+) HB 2010 **(1/23/06 – Introduced)**
HB 2010 would require the operator of a private correctional facility to post a performance bond.

(-) HB 2215 **(1/25/06 – Referred to Transportation Committee)**
HB 2215 would allow those concessionaires who must post a bond valued at less than 4 months rental costs, to post an alternate security in lieu of the bond.

(-) SB 2459 **(1/27/06 – Referred to Transportation Committee)**
SB 2459 is similar to HB 2215 described above.

(+) HB 2316 **(1/25/06 – Referred to Consumer Protection Committee)**
HB 2316 would require mortgage brokers to post a \$50,000 bond.

(+) SB 2279 **(1/27/06 – Referred to Consumer Protection Committee)**
SB 2279 is similar to HB 2316 described above.

(+) HB 2963 **(1/30/06 – Referred to Housing Affairs Committee)**
HB 2963 would require that when the Hawaii Housing Finance and Development Administration enters into agreements to develop housing projects, the developer post a performance bond.

(+) HB 2966 **(1/30/06 – Referred to Housing Affairs Committee)**
HB 2966 would create the Hawaii Housing Finance and Development Corporation. When developing dwelling units in conjunction with other developers or contractors, the Corporation could require bonds from them. When the project is primarily for lower income housing, developers would have to post performance bonds. Performance and payment bonds would be required from developers working on housing projects.

(+) SB 2952 **(1/30/06 – Referred to Consumer Protection Committee)**
SB 2952 is similar to HB 2966 described above.

(+) SB 2953 (1/30/06 – Referred to Consumer Protection Committee)
SB 2953 is similar to HB 2966 described above.

(+) HB 3076 (1/30/06 – Referred to Economic Development Committee)
HB 3076 would require specialty contractors and general contractors to post a \$5,000 bond. Roofing contracts that guarantee workmanship for more than 7 years would have to be accompanied by a surety bond.

(+) HB 3085 (1/30/06 – Referred to Judiciary Committee)
HB 3085 would establish a gaming commission. Members of the Commission would have to post a bond.

(+) SB 2143 (1/27/06 – Referred to Consumer Protection Committee)
SB 2143 would require money transmitters to post a \$100,000 bond or alternate security. The bond could be increased to a maximum value of \$500,000.

(+) HB 2973 (1/30/06 – Referred to Housing Affairs Committee)
HB 2973 is similar to SB 2143 described above.

(+) SB 2453 (1/27/06 – Referred to Consumer Protection Committee)
SB 2453 would require anyone appealing a final order of the Commissioner of Securities to post a \$1,000 bond.

Idaho

(+) SB 1326 (1/30/06 – Introduced)
SB 1326 would allow a court to require a foreign guardian or conservator to post a bond.

Illinois

(+) HB 4147 (1/26/06 – Second Reading)
HB 4147 would create the Central Illinois Economic Development Authority. Banks serving as the depository for the Authority's money would be required to post a surety bond equal to the maximum amount expected to be on deposit at any one time.

(+) HB 4759 (1/18/06 – Referred to Rules Committee)
HB 4759 would require managers of community associations who solely and exclusively have access to and disburse funds of a community association to post a fidelity bond that "covers the license holder and all partners, officers, and employees of the firm with whom the license holder is employed during the term of the bond as well as the association officers, directors, and employees of each community association they service."

(+) SB 2632 (1/20/06 – Referred to Rules Committee)
SB 2632 is similar to HB 4759 described above.

(+) HB 4958 (1/19/06 – Referred to Rules Committee)
HB 4958 would require real estate notaries to post a \$25,000 bond. Real estate notaries that are employed by a government entity would only have to post a \$5,000 bond.

(+) HB 4991 (1/23/06 – Referred to Rules Committee)
HB 4991 would require one who provides debt management services to post a \$50,000 bond or other security.

(+) HB 5311 (1/25/06 – Referred to Rules Committee)
HB 5311 would require long-term care facilities to post a bond to protect the personal funds of residents.

(=) SB 2155 (1/12/06 – Assigned to Education Committee)
Under current law, private vocational and business schools must post a surety bond. SB 2155 would allow the use of a certificate of deposit instead of a surety bond. Similarly, sales representatives who represent such schools and are currently required to post a surety bond would be given the option of posting a certificate of deposit instead.

(+) SB 2262 (1/19/06 – Assigned to Commerce Committee)
SB 2262 would create the Southern Illinois Economic Development Authority. The bank that serves as depository of the Authority's money would have to post a bond equal to the maximum sum expected to be on deposit.

(+) HB 5518 (1/27/06 – Referred to Rules Committee)
HB 5518 is similar to SB 2262 described above.

(+) SB 2519 (1/26/06 – Referred to Rules Committee)
SB 2519 would create the Central Illinois Economic Development Authority. The bank that serves as depository of the Authority's money would have to post a bond equal to the maximum sum expected to be on deposit.

(+) SB 2655 (1/20/06 – Referred to Rules Committee)
SB 2655 would enable surety companies to include copies of power of attorney with policies, rather than file the power of attorney with the circuit courts. SAA worked with AIA to have this bill introduced. This is one of the SAA's state-specific priorities for 2006.

(-) SB 2742 (1/20/06 – Referred to Rules Committee)
SB 2742 would limit retainage to 10%, reduced to 5% after 50% of the contract was complete.

Indiana

(+) HB 1006 (1/24/06 – Second Reading)
HB 1006 would allow schools to pool resources to maintain insurance. If the pool elected to create an insurance trust, the trust would have to maintain a fidelity bond.

(+) SB 323 **(1/26/06 – Passed Senate)**
SB 323 is similar to HB 1006 described above.

(-) HB 1008 **(1/25/06 – Committee Report Adopted)**
HB 1008 would allow public-private agreements to develop transportation facilities. The agreement may provide for performance and payment bonds, but is not specifically required to provide for bonds.

(+) HB 1097 **(1/25/06 – Committee Report Adopted)**
HB 1097 would require discount medical card program organizations to maintain a surety bond or deposit valued at a minimum of \$35,000.

(+) HB 1134 **(1/26/06 – Referred to Judiciary Committee)**
HB 1134 would require the treasurer of a school's extracurricular fund to post a bond if s/he would control more than \$300.

(+/-) HB 1257 **(1/26/06 – Passed House; Referred to Senate)**
HB 1257 would raise 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 would remove, however, a requirement for such schools to post a bond based on the amount of the previous year's tuition. In addition, the bill would require schools with annual gross tuition charges greater than \$250,000 to post a \$50,000 bond. Currently, this requirement only applies to schools with annual gross tuition charges greater than \$500,000. Finally, the balances needed to be placed in the Career College Student Assurance Fund before a school could stop posting a bond would be increased.

(+) HB 1333 **(1/10/06 – Referred to Education Committee)**
HB 1333 would require a scholarship granting organization that receives more than \$50,000 in contributions per school year to post a surety bond or demonstrate that the organization is financially viable.

(+) SB 11 **(1/30/06 – Second Reading)**
SB 11 would require a loan broker who is appealing a decision of the Securities Commissioner to post a \$500 bond or other security.

(-) SB 229 **(1/30/06 – Committee Report Adopted)**
SB 229 would allow 5 or more educational institutions to enter into an agreement to self insure and purchase excess insurance, including surety and fidelity.

(+) SB 341 **(1/30/06 – Second Reading)**
SB 341 would allow "a court to require a performance bond from a property owner if the property owner requests additional time to comply with an order under the unsafe building law."

(+) SB 349 **(1/30/06 – Committee Report Adopted)**
SB 349 would require a title insurer that engages or employs a title agency to certify that the title agency has posted a fidelity bond of at least \$50,000.

(=) SB 359 **(1/26/06 – Committee Report Adopted)**

SB 359 would alter retainage law for public works contracts. Currently, retainage must be placed in an escrow account, if portions of the contract are subcontracted. This bill would eliminate this requirement. Originally, the bill would have increased the amount of retainage held. Currently, either 6% can be held until 50% completion with nothing held thereafter or 3% can be held until work is satisfactorily complete. This bill would have raised the percentage retained to 10% and 5% respectively. This provision, however, has been removed through amendment.

(-) SB 360 **(1/26/05 – Committee Report Adopted)**

SB 360 would increase the threshold for requiring bonds on public works projects from \$150,000 to \$500,000. Furthermore, under current law, if the contract is less than \$150,000 a payment bond may still be required instead of holding retainage. This bill would eliminate that clause, only allowing retainage to be held.

(-) SB 362 **(1/24/06 – Passed Senate)**

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 would remove this clause relating to the sheriff's release of the judgment.

Iowa

(+/-) HB 2003 **(1/9/06 – Referred to Commerce Committee)**

HB 2003, from draft LD 5022, would require consumer reporting services that provide databases to verify that payday loan agreements meet statutory requirements and to post a \$1 million surety bond. The bill contains the following language: "*The aggregate liability of the surety may exceed the principal sum of the bond.*" Cancellation of the bond would require 90 days notice. The bond would have to remain in place for 5 years after the consumer reporting service ceased to operate. In addition, the bill would require payday lenders to post a \$50,000 bond for each place of business, with a \$500,000 maximum aggregate amount required. The SAA supports new bond requirements in the financial services area, but opposes any aggregate liability of the surety in excess of the penal sum of the bond, among other drawbacks, of this bill. The provisions on the bonds for pay day lenders are similar to others that have been enacted in other states. The SAA will work with the AIA to see if this bill can be improved through removal of the onerous bond provisions, and if not, the SAA will oppose the bill.

(+/-) SB 2060 **(1/19/06 – Referred to Commerce Committee)**

SB 2060 is similar to HB 2003 described above.

Kansas

(+) HB 2062 **(1/9/06 – Referred to Judiciary Committee)**

HB 2062 would create district attorney offices in certain judicial districts. The DA would be required to post a surety bond before taking office.

(+) HB 2567 (1/23/06 – Referred to Insurance Committee)

HB 2567 would allow five or more adult care homes to pool their liabilities. The administrator of the financial affairs of the board of the pool would have to post a fidelity bond. Furthermore, the service agent of the pool and its employees would have to post a fidelity bond.

(=) HB 2607 (1/13/06 – Referred to Judiciary Committee)

HB 2607 would allow 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 in a manner inconsistent with the trustee’s fiduciary responsibilities under the provisions of the trust; remove the trustee; require the trustee to account; and issue such other orders as the court finds will be in the best interests of the settler,” when the settler becomes incapacitated.

(+) HB 2645 (1/19/06 – Referred to Transportation Committee)

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

(=) HB 2655 (1/20/06 – Referred to Commerce and Labor Committee)

HB 2655 would require that retainage on undisputed payments on private projects be released within 60 days of substantial completion of the project.

(+) SB 299 (1/17/06 – Referred to Federal and State Affairs Committee)

SB 299 would allow a lien to be placed on a vehicle or plane that was declared a nuisance for having violated liquor laws. “Any claimant of such property who appeals, in order to stay proceedings, must enter into an undertaking with two or more sureties to the state of Kansas, to be approved by the judge of the district court, in the sum of not less than \$100 nor less than double the amount of the value of the property as fixed by the court and the costs adjudged against the property, conditioned that the claimant will prosecute the appeal without unnecessary delay, and if judgment is entered against the claimant on appeal, the claimant will satisfy the judgment and costs, and no bond shall be required for an appeal by the state, and such appeal shall stay the execution of the judgment.” In addition, if judgment were entered against the defendant, the nuisance structure would be closed until the defendant posted a surety bond of at least \$1,000 “conditioned that no alcoholic liquor or cereal malt beverage for a period of two years thereafter shall be manufactured, possessed, sold, bartered or given away or furnished or otherwise disposed of thereon or therein, or kept thereon or therein with intent to sell, barter, give away, or otherwise dispose of the same, contrary to law and that such person’s surety will pay all fines and costs assessed against such person for violating such law.”

(-) SB 355 (1/12/06 – Referred to Judiciary Committee)

SB 355 would change appellate bond requirements. Presently, a bond is required when appealing from a district magistrate judge to a district judge or from a district court to an appellate court. This bill would allow the court to require such a bond, but it would not be mandatory.

(+) SB 422 (1/24/06 – Referred to Financial Institutions and Insurance Committee)

Under current law the county auditor of a county with a population between 80,000 and 300,000 must post a bond with 2 sureties. SB 422 would require only one surety. The \$20,000 value of

the bond would remain the same. Similarly one requesting review of a decision to refuse to issue or renew a controlled area shooting license, one requesting an appeal of a seized airplane or vehicle, one contracting for bridge construction, and officers receiving arms and equipment for the militia, would only have to post a bond with one surety instead of two. Abstracters who post a bond instead of liability insurance would only need one surety instead of three. Nothing in the bill would prohibit one from using more than one surety.

Kentucky

(+) HB 380 (1/18/06 – To Appropriations Committee)

HB 380 would appropriate funds for the renovation of the Executive Mansion. Performance and payment bonds would be required.

(-) HB 454 (1/27/06 – To Military Affairs Committee)

HB 454 would provide that when the Kentucky Department of Veteran Affairs is appointed as a guardian or conservator, a bond would not be required.

(+) HB 462 (1/30/06 – To Banking and Insurance Committee)

HB 462 would raise the minimum value of the bond required from mortgage loan companies from \$100,000 to \$250,000. The bill would raise the minimum value of the bond required from mortgage loan brokers from \$50,000 to \$100,000.

(+) SB 7 (1/5/06 – To Appropriations and Revenue Committee)

SB 7 would require casino owners and racing association licensees to post surety bonds or other security. “The bond shall be in an amount determined by the commission to reflect the amount that a jurisdiction will expend for infrastructure improvements and other facilities associated with a casino or with a track conducting casino gaming.”

(+) HB 346 (1/13/06 – To Licensing and Occupations Committee)

HB 346 is similar to SB 7 described above.

(-) SB 71 (1/12/06 – To Economic Development Committee)

SB 71 would remove a provision requiring employers engaged in construction work for less than 5 consecutive years to post a performance bond ensuring payment of wages.

(+) SB 107 (1/24/06 – To Banking and Insurance Committees)

SB 107 would require viatical settlement brokers to maintain liability insurance or post a bond or cash, valued between \$20,000 and \$100,000. Alternately, an agreement with a viatical settlement provider to assume \$20,000 of responsibility per occurrence could be used to meet this financial security requirement.

(+) SB 119 (1/27/06 – To Judiciary Committee)

SB 119 would require one leasing the labor of a prisoner to post a bond.

(+) SB 123 (1/30/06 – To Banking and Insurance Committee)
SB 123 would require money transmitters to post a bond or other security valued between \$500,000 and \$5 million.

Maine

(-) HB 1318(1/3/05 – Referred to Business, Research, and Economic Development Committee)
HB 1318 would allow the Director of the Office of Consumer Credit Regulation to modify the conditions of the surety bond required from payroll processors. Currently, the Director is only able to modify bonding terms if bonding is unavailable. In addition, the bill would create the Payroll Processor Recovery Fund “for the purpose of providing a source of recovery for employers injured by a payroll processor's failure to pay taxes or unemployment premiums.” To participate in the fund payroll processors would have to post a \$10,000 surety bond plus 1% of the balance of bond coverage required by statute. Assessments would be made until the fund reaches the maximum amount of surety bond currently required. Currently, payroll processors must post a bond “in an amount equal to the total of all local, state and federal tax payments and unemployment insurance premiums processed by the payroll processor on behalf of employers in this State in the 3-consecutive-month period of highest volume during the previous calendar year or \$50,000, whichever is greater, but not to exceed \$500,000.”

(-) SB 684 (12/30/05 – Prefiled)
SB 684 would eliminate a \$25,000 surety bond currently required from professional fund raising counsels.

Maryland

(-) HB 169 (1/19/06 – To Health and Government Operations Committee)
HB 169 would allow individual sureties to bond public procurement and construction contracts.

(-) SB 117 (1/16/06 – Referred to Finance Committee)
SB 117 would allow the State to require health care providers whose fiscal situation warrants it, to post a bond to ensure availability of funds due to the Department of Health. While we support the bond requirement, we oppose the adverse selection inherent in this proposal.

(+) SB 193 (1/23/06 – Read First Time)
SB 193 would institute a program to help employ ex-felons. As part of the program, the State would buy fidelity bonds to bond up to 150 felons for a full year of employment.

Massachusetts

(+) HB 4603 (12/29/05 – Filed)
HB 4603 would require the State to require a payment or performance bond before entering into a guaranteed energy savings contract.

Michigan

(+) HB 5542 (1/11/06 – Referred to Agriculture Committee)
HB 5542 would allow for liens on agricultural products. The lien could be released if secured by a bond or other security.

Mississippi

(+) HB 239 (1/5/06 – Referred to Transportation Committee)
HB 239 would raise the value of the bond required from motor vehicle dealers from \$15,000 to \$25,000.

(+) HB 512 (1/6/06 – Referred to Education and Ways and Means Committees)
HB 512 would require scholarship granting organizations that receive more than \$50,000 a year to post a surety bond or other security. The value of the assurance would have to be equal to the value of contributions received.

(+) HB 686 (1/11/06 – Referred to Ways and Means Committee)
HB 686 would require wine distributors to post a bond with a maximum value of \$100,000.

(+) HB 687 (1/11/06 – Referred to Ways and Means Committee)
HB 687 would require wine distributors to post a bond. No maximum value would be set as is done in HB 686.

(+) HB 985 (1/16/06 – Referred to Judiciary Committee)
HB 985 would require persons who perform residential construction or residential improvement to post a \$50,000 bond.

(+) HB 1184 (1/19/06 - Referred to Conservation and Water Resources Committee)
HB 1184 would require certified professional evaluators of on-site wastewater disposal systems to have an error and omissions policy or surety bond in effect with liability limits of \$50,000 per occurrence or \$100,000 in the aggregate.

(+) HB 1300 (1/16/06 – Referred to Conservation and Water Resources Committee)
HB 1300 would create the Gulf Region Water Utility Authority. The authority would be comprised of a board of 9 directors, each of whom could be required to post a \$10,000 bond. The treasurer would be required to post a \$50,000 bond.

(+) SB 2943 (1/16/06 – Referred to Environment Committee)
SB 2943 is similar to HB 1300 described above.

(+) SB 2007 (1/4/06 – Referred to Judiciary Committee)
SB 2007 would require humane enforcement officers to post a \$100,000 bond.

(+) SB 2100 (1/4/06 – Referred to Judiciary Committee)
SB 2100 would allow a court dealing with divorce proceedings to require surety bonds to ensure payment of maintenance and alimony.

(-) SB 2328 (1/6/06 – Referred to Judiciary Committee)
SB 2328 would repeal a provision requiring a surety bond of at least \$2,000 from each highway patrolman.

(+) SB 2439 (1/10/06 – Referred to Business and Financial Institutions Committee)
SB 2439 would require that third-party payment processors post a \$50,000 surety bond or other security for each debt management service provider it contracts with, but no more than \$150,000.

(+) HB 1012 (1/16/06 – Referred to Banking and Financial Services Committee)
HB 1012 is similar to SB 2439 described above.

(+) SB 2481 (1/12/06 – Referred to Judiciary Committee)
SB 2481 would require notaries to post a \$10,000 bond.

(+) HB 936 (1/16/06 – Referred to Judiciary Committee)
HB 936 is similar to SB 2481 described above.

(+) SB 2530 (1/12/06 – Referred to Education Committee)
SB 2530 would establish the Mississippi Scholarship for Students with Disabilities Program. Private schools participating in the program would have to demonstrate fiscal soundness by “being in operation for one (1) school year or provide the State Department of Education with a statement by a certified public accountant confirming that the private school desiring to participate is insured and the owner or owners have sufficient capital or credit to operate the school for the upcoming year serving the number of students anticipated with expected revenues from tuition and other sources that may be reasonably expected. 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.” We will attempt to eliminate the adverse selection in this bill.

(+) SB 2545 (1/12/06 – Referred to Public Health and Welfare Committee)
SB 2545 would allow a court to require one to post a bond to ensure payment for an order of paternity. If such a bond were required, the person also would be required to post a bond to the State for the support and education of the child. The bill would also allow a court to require a bond from a mother who has failed to support and educate her child.

(=) SB 2566 (1/13/06 – Referred to Public Property Committee)
SB 2566 would lower the amount of time one has to pay contractors from 60 days to 45 days from when payment was due before interest would begin to accrue.

(=) HB 716 (1/11/06 – Referred to Judiciary Committee)
HB 716 is similar to SB 2566 described above.

(=) HB 789 (1/11/06 – Referred to Judiciary Committee)
HB 789 is similar to SB 2566, but would lower the time frame to 30 days.

(=) SB 2727 (1/16/06 – Referred to Business and Financial Institutions Committee)
SB 2727 is similar to HB 789 described above.

(+) SB 2717 (1/16/06 – Referred to Business and Financial Institutions Committee)
SB 2717 would raise the value of the bond required from motor vehicle dealers from \$15,000 to \$50,000.

(+) SB 2742 (1/16/06 – Referred to Business and Financial Institutions Committee)
SB 2742 would require alarm contractors to post a \$300,000 general liability and errors and omissions policy or surety bond. SAA will work to change this bill to require both e&o and a surety bond since they provide different coverage.

(=) SB 2948 (1/16/06 – Referred to Insurance Committee)
SB 2948 would allow the seller of a condominium, in lieu of placing funds in an escrow account, obtain a surety bond or other security

Missouri

(-) HB 1028 (1/12/06 – Referred to Local Government Committee)
HB 1028 would remove a provision requiring one who prepares the annual financial statement of the county commission to post a bond if s/he were not already a bonded county officer.

(-) HB 1223 (1/5/06 – Read Second Time)
HB 1223 would raise the threshold for requiring bonds on public works projects from \$25,000 to \$100,000. In addition, the bill would allow the division of facility management to use construction manager at risk contracts. Performance and payment bonds would be required.

(-) SB 904 (1/26/06 – Read Second Time)
SB 904 is similar to HB 1223 described above.

(-) HB 1380 (1/17/06 – Read Second Time)
HB 1380 would allow for a public-private partnership to finance, develop, and/or operate a toll bridge between Illinois and Missouri. Bid bonds would not be required on the project, but the Missouri Highways and Transportation Commission could require performance and payment bonds.

(-) SB 938 (1/26/06 – Referred to Transportation Committee)
SB 938 is similar to HB 1380 described above.

(+/-) HB 1465 (1/23/06 – Read Second Time)
HB 1465 would require every officer, agent, shop steward, or other representative or employee of any labor organization, who handles funds or property of the labor organization to be bonded. This requirement would not apply to labor organizations whose annual value is less than \$5,000.

The bond would be valued at 10% of the funds handled by an individual during the preceding year, up to \$500,000. The first year bonds would be a minimum of \$1,000. Surety companies issuing these bonds would have to issue detailed reports to the State, filed by the president and treasurer or corresponding principal officers, detailing “premiums received, total claims paid, amounts recovered by way of subrogation, administrative and legal expenses and such related data and information as the department shall determine to be necessary in the public interest.” SAA favors the new bond requirement, but is working with AIA to eliminate the reporting requirements.

(+) HB 1479 (1/24/06 – Read Second Time)

HB 1479 would require that private schools participating in the Angell Scholarship Program demonstrate fiscal soundness by being in existence for three years or posting a bond or letter of credit for the amount of funds received through the scholarship.

(+) SB 777 (1/11/06 – Read Second Time)

SB 777 would create the Missouri Universal Health Assurance Program to provide healthcare to all state residents. The executive director of the program would be required to post a surety bond.

(+) SB 788 (1/11/06 – Read Second Time)

SB 788 would create the Missouri Propane Gas Authority. Each commissioner of the authority would have to post a \$50,000 bond. The executive director of the authority would have to post a \$100,000 bond. A blanket bond could be posted instead of individual bonds.

(=) SB 908 (1/26/06 – Read Second Time)

SB 908 would allow electronic bidding on state highway projects. Bid bonds would have to be able to be submitted electronically.

(+) SB 962 (1/30/06 – Read Second Time)

SB 962 would establish a scholarship tax credit program. Scholarship granting organizations that receive more than \$50,000 in donations a year would have to demonstrate their financial viability by posting a bond or the organization’s financial information.

Nebraska

(+) LB 875 (1/26/06 – Placed on Select File)

LB 875 would require a managing general agent to post a surety bond valued at “at least one hundred thousand dollars or ten percent of the managing general agent’s total annual written premium nationwide produced by the managing general agent for the insurer in the prior calendar year, but not greater than five hundred thousand dollars.”

(+) LB 876 (1/26/06 – Placed on General File)

LB 876 would raise the value of the surety bond required from mortgage bankers from \$50,000 to \$100,000.

(+) LB 906 (1/6/06 – Referred to Business and Labor Committee)
LB 906 would require all contractors to register with the state. Currently, only those performing work in counties containing more than 100,000 people are required to register. Furthermore, this bill would change the registration requirements to require a \$10,000 surety bond per consumer of the contractor. SAA supports this new bond, but is working to lower the bond value from \$10,000 per customer.

(+) LB 991 (1/10/06 – Referred to Judiciary Committee)
LB 991 would require home inspectors to post a \$50,000 surety bond.

(+) LB 1198 (1/20/06 – Referred to Revenue Committee)
LB 1198 would require microscale producers of biofuel to post a bond with a maximum value of \$5,000.

(+) LB 1209 (1/20/06 – Referred to Revenue Committee)
LB 1209 would raise the minimum value of the bond required from alcohol manufacturers and wholesalers from \$1,000 to \$5,000.

(+) LB 1212 (1/20/06 – Referred to Revenue Committee)
LB 1212 would require direct sellers of cigarettes to post a bond.

New Hampshire

(=) HB 1107 (1/4/06 – Referred to Commerce Committee)
HB 1107 would establish laws for commercial construction contracts. Such contracts are defined as being greater than \$25,000, not a public works project, not funded or insured by HUD, and if for residential occupancy, containing more than 4 units. The owner would be required to pay anyone with whom s/he directly contracts within 30 days of receiving request for payment. Likewise, those who received these monies would have to pay their subs and suppliers within 30 days of receipt of payment. If payment were not made, a notice of claim would have to be made through certified mail. Ten days after receipt of notice, the one notified would be liable for 1% interest per month on the payment. If the party withholding the money were found to have done so in bad faith s/he would also be liable for 10% in damages. Retainage could not exceed 7.5% and would have to be placed in an escrow account. The bill also provides that any provision in a construction contract or any periodic lien waiver issued pursuant to a construction contract that purports to waive the right to assert a lien or make a claim against a payment bond shall be void and of no effect. “No surety shall be obligated to include in the payment of a bond issued by such surety any interest, costs, penalties, or attorneys’ fees imposed on the principal of such bond under any provision of this chapter, unless the terms of the bond expressly reference said sections and subsection and state that such surety is obligated to pay such interest, costs, penalties or attorneys’ fees.” “In any enforcement action under this chapter, a court may award court costs and reasonable attorney’s fees to the prevailing party.”

This bill is similar to the “prompt pay” legislation that the SAA has seen subcontractors introduce in other states, with some notable exceptions: 1) it is limited to commercial contracts,

as defined in the bill; 2) it permits retainage whereas most prompt pay bills eliminate it; and 3) it specifically excludes bond claims for attorneys fees, interest and penalties.

(+) HB 1126 (1/4/06 – Referred to Commerce Committee)

HB 1126 would require mortgage bankers to post a \$20,000 surety bond. Currently, only mortgage brokers are required to post this bond.

(+) HB 1247 (1/4/06 – Referred to Executive Departments Committee)

HB 1247 would require pharmacy benefit managers to post a fidelity bond equal to at least 10% of the amount of the funds s/he manages annually. The insurance department could require the bond be in excess of \$500,000, but no more than 10% of the amount of funds handled.

(+) HB 1324 (1/4/06 – Referred to Resources Committee)

HB 1324 would require the State to solicit lease proposals for the Cannon Mountain ski area. Performance bonds would have to be part of any proposal.

(+) HB 1325 (1/4/06 – Referred to Commerce Committee)

HB 1325 would require martial arts schools to post a \$50,000 surety bond or other security. Schools that only accept membership fees on a monthly basis or whose refund liability does not exceed \$5,000 would be exempted from the bond requirement.

(+) HB 1614 (1/4/06 – Introduced)

HB 1614 would require an erosion control bond in the amount of \$.10 per square foot of disturbed area of topsoil when doing road construction. SAA is attempting to amend the bill to require the bond be not less than \$.10 per square foot to ensure adequate coverage.

(+) HB 1685 (1/4/06 – Referred to Education Committee)

HB 1685 would establish a scholarship to allow children with educational disabilities to enroll in a private school. Schools receiving scholarship money would have to post a surety bond equal to the aggregate amount of scholarship money expected to be received.

(+) HB 1759 (1/4/06 – Referred to Judiciary Committee)

HB 1759 would allow a court to allow the posting of a lien bond to discharge a lien held by one who provided labor or materials.

(+) SB 72 (1/4/06 – Passed House)

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

(+) SB 391 (1/4/06 – Referred to Banks and Insurance Committee)

SB 391 would require insurance administrators who administer governmental, multiple employer welfare arrangements, or church self-insured plans to post a surety bond valued at the greater of \$100,000 or “Ten percent of the aggregate total amount of self-funded coverage under church plans or governmental plans handled in the administrator’s home state and all additional states in which the administrator is authorized to conduct business.”

New Jersey

****NEW LAW****

(-) HB 2641

(1/12/06 – Approved; P.L. 2005, C.369)

HB 2641 raises the threshold for requiring public advertising for bids on contracts with state colleges from \$17,700 to \$26,200. Bid bonds can required when bidding on a publicly advertised project. Furthermore, the bill removes a requirement that if a performance bond is required on a contract with a state college that bidders on the project be required to “submit with the bid a certificate from a surety company stating that it will provide that bidder with a performance bond in the specified amount and form.” The bill also removes the requirement that “All bid security except the security of the three apparent lowest responsible bidders shall, if requested, be returned within 30 days from the opening of the bids, Sundays and holidays excepted, and the bids of those bidders shall be considered as withdrawn.” In addition, the bill no longer requires that bids from subcontractors show evidence of performance security.

****NEW LAW****

(-) SB 204

(1/9/06 – Approved; P.L. 2005, C. 283)

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.”

****NEW LAW****

(+) SB 2710

(1/12/06 – Approved; P.L. 2005, C.351)

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.

(+) HB 4196

(1/9/06 – Substituted with SB 2710)

HB 419 is similar to SB 2710 described above.

****NEW LAW****

(-) SB 2864

(1/12/06 – Approved; P.L. 2005, C. 356)

SB 2864 alters retainage rules on state DOT projects. Previously, 5% was retained for the first 50% of the project, with nothing held thereafter. In addition, 2% was withheld upon substantial completion of the project. This bill allows 2% to be withheld for the entire project, with 1% being withheld upon substantial completion. Retainage can be increased to 4% at any time if work is not progressing as defined by the New Jersey Department of Transportation Standard Specifications for Road and Bridge Construction.

(-) HB 4517

(1/9/06 – Substituted by SB 2864)

HB 4517 is similar to SB 2864 described above.

(+) HB 271

(1/26/06 – WITHDRAWN)

HB 271 would have required those licensed for off-site sales of used motor vehicles to post a \$500,000 bond or proof of self-insurance.

(+) HB 285 (1/10/06 – Introduced)

HB 285 would allow the attachment of the property of one against whom there is probable cause the s/he has committed, supported, or is about to commit or support terrorism. The posting of a bond or other security could release the property.

(+) HB 774 (1/10/06 – Referred to Appropriations Committee)

HB 774 would promote sports and entertainment development around the Meadowlands. Projects entered into under the act that receive state assistance would be required to have payment bonds.

(+) HB 1082 (1/10/06 – Referred to Commerce and Economic Development Committee)

HB 1082 is similar to HB 774 described above.

(+) HB 798 (1/10/06 – Referred to Housing and Local Government Committee)

HB 798 would require that the seller of a unit in a common interest community which requires a public offering statement to post a bond or other security for insurance against the lien on the property.

(+) SB 805 (1/10/06 – Referred to Community and Urban Affairs Committee)

SB 805 is similar to HB 798 described above.

(=) HB 945 (1/10/06 – Referred to Financial Institutions and Insurance Committee)

HB 945 would establish that if a mediation panel found that one's medical malpractice claims were frivolous, and the action proceeded to trial, the party with the frivolous claim would have to post \$10,000 cash or surety bond. If judgment is entered against the party with the frivolous claims, "the bond shall be used to pay all reasonable costs incurred by the other party or parties in the frivolous action, as well as any costs allowed by law or by court rule, including court costs and reasonable attorneys' fees."

(=) HB 1088 (1/10/06 – Referred to Financial Institutions and Insurance Committee)

HB 1088 is similar to HB 945 described above.

(+) HB 1016 (1/10/06 – Referred to Regulated Professions Committee)

HB 1016 would require each HVAC contractor to post a \$3,000 bond.

(+) HB 1107 (1/10/06 – Referred to Environment and Solid Waste Committee)

HB 1107 would allow one to post a performance bond to compromise a civil administrative penalty imposed for violating laws related to water supply protection.

(+) HB 1358 (1/10/06 – Referred to Housing and Local Government Committee)

HB 1358 would establish a system for public works project owners to notify the Commissioner of Community Affairs if action had to be taken against a contractor's surety. This registry of defaulting contractors would be made readily available.

(+) HB 1458 (1/26/06 – Second Reading)
HB 1458 would stay judgments against New Jersey members of the armed forces and national guard, and their sureties, while on active duty.

(+) HB 1504 (1/10/06 – Referred to Housing and Local Government Committee)
HB 1504 would create the Local Bond Authority to secure financing for local governments. Each member of the Authority's board, and its treasurer, would have to post a bond.

(-) HB 1552 (1/30/06 – WITHDRAWN)
HB 1552 would have altered retainage rules on state DOT projects. Currently, 5% of the first 50% of the project is withheld. This bill would have allowed 2% to be withheld until 100% completion. Retainage could have been increased to 4% if work was not satisfactorily progressing.

(-) SB 120 (1/10/06 – Referred to State Government Committee)
SB 120 is similar to HB 1552 described above.

(+) HB 1655 (1/10/06 – Referred to Law and Public Safety Committee)
HB 1655 would change bonding rules for private investigators. Currently, an individual must post a \$3,000 bond and a firm a \$5,000 bond. This bill would have the value of the bond be set by the Superintendent of the Division of State Police through rules and regulations.

(-) HB 1770 (1/10/06 – Referred to Higher Education Committee)
HB 1770 would remove a requirement that when bidding for state college contracts that require a performance bond, the bidder "submit with the bid a certificate from a surety company stating that it will provide that bidder with a performance bond in the specified amount and form." SAA will work to have this changed to a requirement for a bid bond.

(-) SB 660 (1/17/06 – WITHDRAWN)
SB 660 is similar to HB 1770 described above.

(+) HB 1918 (1/10/06 – Referred to Judiciary Committee)
HB 1918 would require the executor of a will whose beneficiary is developmentally disabled to post a bond.

(+) SB 476 (1/10/06 – Referred to Judiciary Committee)
SB 476 is similar to HB 1918 described above.

(+) HB 1930 (1/10/06 – Referred to Transportation and Public Works Committee)
HB 1930 would require a retail dealer of motor fuel that pays his/her supplier through a payment plan to post a \$10,000 surety bond.

(-) HB 3233 (1/9/06 – Substituted by SB 204)
HB 3233 would amend the current Charitable Registration and Investigation Act to expand the scope of the surety bond for fundraisers. Under current law a fundraising counsel or independent paid fundraiser must obtain a \$20,000 bond payable to the Attorney General for the benefit of

any person who may have a cause of action against the fundraiser due to a violation of the Charitable Registration and Investigation Act. This amendment of the act would allow the bond to be used to satisfy “any assessment against the principal obligor of the bond (the fundraiser) for any such violation [of the act].”

(=) HB 4548 (1/5/06 – Referred to Financial Institutions Committee)
HB 4548 would allow the developer of a timeshare to post a surety bond or other security in lieu of depositing a purchaser’s funds into escrow.

(+) SB 166 (1/10/06 – Referred to Commerce Committee)
SB 166 would require service contract providers to post a 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 \$25,000.”

(+) SB 368 (1/10/06 – Referred to Law and Public Safety Committee)
SB 368 would make prisoners responsible for the cost of their incarceration. The State would have a lien against the prisoner’s earnings and property to ensure payment. The posting of a surety bond could discharge the lien.

(=) SB 1071 (1/26/06 – Referred to Community and Urban Affairs Committee)
SB 1071 would, in any municipality, allow treasurers, tax collectors, and municipal court judges and clerks, to be covered under a blanket bond.

New Mexico

(-) HB 33 (1/25/06 – To Business Committee)
HB 33 would remove a requirement for the treasurer of the chiropractic board to post a \$5,000 bond.

(-) SB 201 (1/30/06 – Passed Judiciary Committee)
SB 201 is similar to HB 33 described above.

(+) HB 270 (1/26/06 – To Judiciary Committee)
HB 270 would require the Secretary of Motor Transportation to post a \$25,000 bond. Directors of the various divisions within the Department of Motor Transportation would have to post \$10,000 bonds.

(+) SB 446 (1/24/06 – To Transportation Committee)
SB 446 is similar to HB 270 described above.

(+) HB 437 (1/24/06 – To Business and Industry Committee)
HB 437 would allow an oil and gas operator to enter a surface owner’s property if no surface use and compensation agreement was reached within 40 days of receiving notice of intent to enter the property. The operator would have to post a bond to do this valued at the greater of \$25,000 or compensation for damages caused by the oil and gas operations.

(+) SB 631 (1/30/06 – Referred to Judiciary Committee)
SB 631 is similar to HB 437 described above.

(-) SB 22 (1/27/06 – To Transportation Committee)
Currently, subcontractors must post performance and payment bonds on public works projects where the value of their work exceeds \$50,000. SB 22 would allow the posting of an irrevocable letter of credit instead. Similarly, contractors, who are required to post such bonds on projects in excess of \$25,000, would also be given the option of posting an irrevocable letter of credit.

New York

(+) HB 6450 (1/30/06 – To Third Reading)
HB 6450 would implement a real estate transfer tax. If anyone requests a court review of the tax assessed or applies for a refund of the tax, a surety bond would first have to be posted in an amount to cover all costs of the proceeding.

(-) HB 9069 (1/18/06 – Referred to Governmental Operations Committee)
HB 9069 would allow the threshold for requiring performance and payment bonds on public contracts in New York to be raised for small businesses and minority and women owned businesses to \$500,000. The proposed text reads, “In a case where a contract is awarded to a small business concern or to a minority or women-owned business concern, all performance bonds and payment bonds may be dispensed with when the aggregate amount of the contract is under five hundred thousand dollars. Advertisements for bids shall provide information as to the requirements for, or dispensation of, performance and payment bonds.” The SAA will work actively with the AIA to oppose this.

(+) HB 9166 (1/4/06 – Referred to Ways and Means Committee)
HB 9166 would establish separate registration procedures and fees for electric, clean, and hybrid vehicles. Any bank that accepted the deposit of monies collected from the registration of such vehicles would have to post a surety bond.

(+) HB 9348 (1/10/06 – Referred to Governmental Operations Committee)
HB 9348 would expand the state bonding guarantee assistance program to include assistance to service related disabled veteran owned businesses.

(+) HB 9467 (1/13/06 – Referred to Education Committee)
HB 9467 would authorize the reconstruction of school buildings in Syracuse. Payment and performance bonds would be required in every contract entered into by the school construction board.

(+) HB 9558 (1/20/06 – Referred to Ways and Means Committee)
Portions of HB 9558 are similar to HB 9467 described above.

(+) SB 6458 (1/20/06 – Referred to Finance Committee)
SB 6458 is similar to HB 9558 described above.

(+) HB 9559 (1/20/06 – Referred to Ways and Means Committee)
HB 9559 would raise the value of the bond required from those who write bail bonds from \$5,000 to \$10,000.

(+) SB 6459 (1/20/06 – Referred to Finance Committee)
SB 6459 is similar to HB 9559 described above.

(+) SB 4344 (1/31/06 – Second Report)
SB 4344 would require that “commonly owned or maintained improvements are fully completed or subject to a performance bond or letter of credit to insure their completion,” when providing an “offering of cooperative interests in realty that consists of a subdivision of real property that consists of fewer than five individual homes or lots deeded to individual purchasers in fee simple absolute which does not contain commonly owned or maintained major improvements or recreational facilities, but does contain commonly owned or maintained driveways.”

(-) SB 5463 (1/31/06 – To Third Reading)
SB 5463 would allow the commissioner of labor to require a surety bond from any manufacturer or contractor of apparel who has twice violated the same provision of the labor law for the apparel industry in a two-year period. “Such surety bond shall be payable to the state and shall be for the benefit of production employees damaged by any failure of a manufacturer or contractor to pay wages or benefits or otherwise comply with the provisions of this chapter. Such surety bond shall be in the sum and form that the commissioner shall deem to be necessary to protect such production employees but shall in no case exceed \$2500 per production employee.”

(+) SB 5586 (1/4/06 – Referred to Rules Committee)
SB 5586 would require one seeking judicial review of the final determination of a real estate transfer fee to post a surety bond or other security.

(-) SB 6234 (1/4/06 – Referred to Environmental Conservation Committee)
SB 6234 would establish a natural gas and oil well security fund to allow natural gas and oil producers to meet their financial security requirements in lieu of posting a bond or other security. Only those with wells less than 6000 feet in depth could participate in the fund. They would have to pay ten dollars per well per year into the fund in addition to an initial \$500 fee.

(-) SB 6302 (1/4/06 – Referred to Education Committee)
SB 6302 would regulate school construction in the Sweet Home Central School District of Amherst and Tonawanda. Contractors would not be allowed to retain more than 5% of each payment to their subcontractors unless the subcontractors did not, at the request of the contractors, post a “performance bond and a labor and material bond both in the amount of the subcontract,” in which case the contractors could retain up to 10% of each payment to their subcontractors. This bill is similar to a number of pending bills in New York under which retainage is limited for a specific state construction project if the subcontractors post bonds. See the SAA’s Annual State Legislative Report on Contract Surety Bonds on the SAA website for a list of other similar bills.

(-) HB 9481 (1/18/06 – Referred to Education Committee)
HB 9481 is similar to SB 6302 described above.

(-) HB 9312 (1/10/06 – Referred to Education Committee)
HB 9312 is similar to SB 6302, but for the Scarsdale School District.

(-) HB 9430 (1/11/06 – Referred to Education Committee)
HB 9430 is similar to SB 6302 but for the East Hampton School District.

(+) SB 6369 (1/10/06 – Referred to Education Committee)
SB 6369 would establish a fund to provide loans to public libraries for construction and capital improvements. Any library using such funds would be required to have the contractor performing the work post a bond.

(+) SB 6371 (1/11/06 – Referred to Environmental Conservation Committee)
SB 6371 would require one requesting a review of a final determination made relating to a real estate transfer tax to post a surety bond.

North Dakota

(+) LD 70028 (1/17/06 – Draft Text Released)
LD 70028, a draft bill, would hold that “A covered employee is not, solely as the result of being a covered employee of a professional employer organization, an employee of the professional employer organization for purposes of general liability insurance, fidelity bond, surety bond, employer's liability not covered by workers' compensation, or liquor liability insurance carried by the professional employer organization unless the covered employee is included by specific reference in the professional employer agreement and applicable prearranged employment contract, insurance contract, or bond.”

Ohio

(+) HB 454 (1/11/06 – Referred to Financial Institutions Committee)
HB 454 would require money transmitters to post a surety bond or other financial security valued between \$300,000 and \$2 million.

Oklahoma

(+) HB 2470 (1/20/06 – Prefiled)
HB 2470 would expand the definition of “public contract” to include “any contract that is derived from other forms of consideration such as a promise of performance, including but not limited to, pledging a percentage of revenues or toll charges due to a public agency and is awarded by any public agency for the purpose of making any public improvements or constructing any public building, road, or bridge whereby the public agency has an agreement to authorize a private entity to make such improvements or construction and transfer the improvement, building, road, or bridge back to the public agency at a later date.”

(=) HB 2519 **(1/20/06 – Prefiled)**
HB 2519 would limit the appeal bond of a nonparticipating manufacturer that is in compliance with the escrow statutes pursuant to the Master Settlement Agreement to \$2.5 million.

(-) HB 2620 **(1/21/06 – Prefiled)**
HB 2620 would exempt contracts entered into by Oklahoma Correctional Industries for stemwalls and foundations from being considered a “public construction contract”.

(=) HB 2657 **(1/21/06 – Prefiled)**
HB 2657 would raise the value of liability insurance or bond required from owners of dangerous dogs from \$50,000 to \$100,000.

(=) HB 2658 **(1/21/06 – Prefiled)**
HB 2658 is similar to HB 2657 described above.

(=) HB 2813 **(1/21/06 – Prefiled)**
HB 2813 is similar to HB 2657 described above.

(-) HB 2765 **(1/21/06 – Prefiled)**
HB 2765 would raise the threshold for requiring bonds on public projects from \$25,000 to \$50,000.

(-) SB 1789 **(1/21/06 – Prefiled)**
SB 1789 would raise the threshold for holding retainage on public contracts from \$25,000 to \$40,000.

(+) SB 1798 **(1/21/06 – Prefiled)**
SB 1798 would hold that “any provision in a construction agreement that requires an entity or that entity’s surety or insurer to indemnify, insure, defend or hold harmless another entity against liability for damage arising out of death or bodily injury to persons, or damage to property, which arises out of the negligence or fault of the indemnitee, its agents, representatives, subcontractors, or suppliers, is void and unenforceable as against public policy.”

Pennsylvania

****NEW LAW****

(+) HB 1826 **(1/6/06 – Approved by Governor)**
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.

(+) HB 1114 **(1/25/06 – Second Consideration in Senate)**
HB 1114 would allow anyone to post a surety bond to contest the amount of money being assessed for the remediation of a waste tire pile.

(-) HB 1854 **(1/30/06 – Third Consideration)**

HB 1854 would raise the threshold in the Second Class Township Code for requiring performance bonds on contracts from \$10,000 to \$18,000. Originally, the bill raised the dollar amount for requiring bonds to \$25,000. Furthermore, the threshold would be adjusted yearly based on changes in the CPI.

(-) HB 1855 **(1/30/06 – Third Consideration)**

HB 1855 is similar to HB 1854, but for First Class Townships.

(-) HB 1856 **(1/30/06 – Third Consideration)**

HB 1856 is similar to HB 1854, but for Third Class Cities.

(-) HB 1857 **(1/30/06 – Third Consideration)**

HB 1857 is similar to HB 1854, but for boroughs.

(-) HB 1860 **(1/30/06 – Re-Reported)**

HB 1860 would raise the threshold for requiring bonds on projects let by the public school construction authority from \$4,000 to \$18,000. Originally, the bill only raised the threshold to \$10,000. In addition, this threshold would be adjusted yearly based on changes in the CPI.

(-) HB 1871 **(1/30/06 – Third Consideration)**

HB 1871 is similar to HB 1854, but for the Public Auditorium Building Authority.

(-) HB 1872 **(1/30/06 – Third Consideration)**

HB 1872 is similar to HB 1854, but for Second Class Counties.

(-) SB 660 **(1/26/06 – Referred to Judiciary Committee)**

SB 660 would enact the Uniform Trust Code in Pennsylvania. The bill includes the following clauses:

- (a) When required.--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 provisions of the trust instrument and the court has not dispensed with the requirement.
- (b) Judicial authority.--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.
- (c) Institutional trustees.--An institution qualified to do trust business in this Commonwealth need not give bond even if required by the trust instrument.

(+) SB 854 **(1/3/06 – Referred to Rules Committee)**

SB 854 would require a transient vendor to post a \$500 surety bond to ensure tax collection. In addition, the State could require a surety bond from any nonresident person or foreign corporation or other entity to ensure any tax payments that may be required. Nonresident building contractors and suppliers would be required to post such a bond.

Rhode Island

(-) SB 2182 (1/26/06 – Referred to Judiciary Committee)

SB 2182 would create a civil cause of action against sureties acting in bad faith. “An obligee, principal or claimant may also make claim for compensatory damages, punitive damages and reasonable attorneys' fees.”

(-) SB 2193 (1/26/06 – Referred to Commerce Committee)

SB 2193 would increase the value of the bond required from blasters (those using explosives) from \$50,000 to \$1 million. Alternately, this bill would allow them to post a \$1 million insurance policy. Currently, only surety bonds are accepted.

South Carolina

(+) HB 4315 (1/10/06 – Referred to Ways and Means Committee)

HB 4315 would establish scholarship programs to allow low income families to send their children to non-public preschools and kindergartens. In addition, a scholarship would be established for special needs students to attend non-public schools. Schools that receive more than \$50,000 in scholarship monies would have to demonstrate that they have the financial capability to repay the aggregate amount of the scholarships granted or post a surety bond in the aggregate amount of scholarships received.

(-) HB 4335 (1/10/06 – Referred to Ways and Means Committee)

Under current law, nonpublic post-secondary institutions must post a bond or other collateral. Currently, the money from such a security can only be used to refund tuition and instructional fees. HB 4335 would allow the money to be used to subsidize the cost of providing facilities and instruction for students to complete their programs, or to pay expenses to store and maintain student records.

(-) HB 4363 (1/10/06 – Referred to Judiciary Committee)

HB 4363 would cap supersedeas bonds at 50% of the defendants net worth or \$10 million. The bond could be reduced at the court's discretion so as not to cause the defendant substantial economic harm. If the defendant is found to be diverting his/her assets, a bond for the full amount of the judgment could be required.

(+) HB 4534 (1/26/06 – Referred to Ways and Means Committee)

HB 4534 would establish a scholarship to allow students attending a failing school to switch to a different school. An independent school that accepts scholarship students would have to demonstrate financial viability if receiving more than \$50,000 a year in scholarship payments. One way to do this would be with a surety bond.

(+) SB 938 (1/10/06 – Referred to Judiciary Committee)

SB 938 would require the state Superintendent of Education to post a \$5,000 surety bond.

(-) SB 971 (1/10/06 – Referred to Judiciary Committee)
SB 971 would limit appeals bonds in civil actions to \$10 million or 50% of the appellant's net worth. The bond amount could be reduced to prevent substantial economic harm. If the defendant is found to be diverting his/her assets, a bond for the full amount of the judgment could be required.

(+) SB 1034 (1/11/06 – Referred to Transportation Committee)
SB 1034 would raise the value of the bond required from automobile wholesalers and dealers from \$15,000 to \$30,000.

(+) HB 4532 (1/26/06 – Referred to Labor Committee)
HB 4532 is similar to SB 1034 described above.

(+) SB 1089 (1/26/06 – Referred to Transportation Committee)
SB 1089 would require driver training schools to post a \$10,000 bond.

South Dakota

(+) SB 50 (1/31/06 – Passed Senate)
SB 50 would make certain members of limited liability corporations and partnerships personally responsible for tax debts. The LLC or partnership could avoid having these members be personally liable by posting a surety bond or other security.

(+) SB 62 (1/24/06 – Read First Time in House)
SB 62 would modify bonding requirements for uranium exploration permits. Currently, one must post a bond guaranteeing the plugging of 10% of the test holes. This bill would require the bond to cover plugging all of the test holes. In addition, currently, in lieu of filing a bond for each exploration area, one may post a \$20,000 bond to cover all exploration statewide. This bill would remove that provision.

(+) SB 105 (1/24/06 – Tabled in Agriculture Committee)
SB 105 would require concentrated animal feeding operations with more than 700 animal units to post financial security for the remediation of potential environmental damage.

(-) SB 106 (1/27/06 – Failed to Pass Senate)
SB 106 would exempt small sand, gravel, and other extraction operations from posting a surety bond if:

- (1) At least two-thirds of the operator's total family gross income is derived from agriculture;
- (2) The operator is the owner of the affected land;
- (3) The affected land lies within or is contiguous with parcels of agricultural land owned by the operator on which a portion of the operator's agricultural income is generated;
- (4) The affected land is less than ten acres; and
- (5) The operator extracts from the affected land an average of less than twenty-five thousand tons per year of sand, gravel, and any other material specified in § 45-6-65.

Utah

(=) HB 100 (1/31/06 – Favorable Recommendation From Natural Resources Committee)

HB 100 would require those beginning environmental litigation to post a bond, “in an amount that will cover the payment of the reasonably foreseeable costs and damages suffered in Utah by any person because of the environmental litigation, including:

- (i) employees' lost wages, salaries, and benefits;
- (ii) lost net revenue; and
- (iii) consequential damages, including increased construction costs, because of the litigation;”

(-) HB 145 (1/27/06 – To Natural Resources Committee)

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

(-) HB 291 (1/27/06 – Read Second Time)

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

(-) SB 80 (1/31/06 – To Transportation Committee)

SB 80 would authorize public-private partnerships for the construction of tollways. Payment and performance bonds would be allowed, but are not specifically required.

Vermont

(-) HB 678 (1/18/06 – In Commerce Committee)

HB 678 would remove the surety bond as one way for a service contract provider to prove his/her financial stability.

(+) SB 238 (1/3/06 – In Finance Committee)

SB 238 would require the receiver of a cooperative association to post a surety bond.

Virginia

(-) HB 64 (1/31/06 – Read Second Time)

In its current version, HB 64 raises the threshold for requiring bonds from \$100,000 to \$300,000, on transportation related contracts only. The threshold for requiring bonds on other public works would remain at \$100,000. Bid bonds could be required on contracts below these threshold figures. Bid bonds on transportation related contracts above \$300,000 would be limited to 5%. Originally HB 64 would have raised the threshold for requiring bid, performance, and payment bonds on public works projects from \$100,000 to \$500,000. In addition, transportation related projects would no longer have been required to post 100% payment bonds. Despite being successful in seeing the bill limited, SAA and AIA are working to discuss this bill with the sponsor and oppose its enactment.

(=) HB 340 (1/5/06 – Referred to Agriculture Committee)
HB 340 would require the owner of a dangerous dog to maintain \$300,000 in liability insurance or a \$300,000 surety bond.

(=) SB 200 (1/26/06 – Passed Senate)
SB 200 is similar to HB 340 described above.

(+) HB 525 (1/23/06 – Referred to General Laws Committee)
HB 525 would require a qualified organization composed of or for deaf or blind persons that employs someone who is not a member of the organization to provide clerical assistance in the management and operation but not the conduct of any charitable games to post a fidelity bond. Currently, fidelity bonds are required in such a situation only if the person assists in the conduct of the game.

(-) HB 693 (1/18/06- Referred to General Laws Committee)
HB 693 would allow one to post a bond, letter of credit, or cash, to secure escrow deposits for time-share purchases. Currently, only a surety bond may be used to do this.

(+) HB 750 (1/18/06 – Referred to General Laws Committee)
Current law requires 100% performance bonds on public contracts exceeding \$100,000. Transportation projects that exceed \$100,000, however, are statutorily exempt from 100% performance bonds, instead requiring a bond in an amount “satisfactory to the public body.” HB 750 would remove this distinction, and require 100% performance bonds on all public contracts greater than \$100,000.

(-) HB 812 (1/30/06 – Referred to Courts of Justice Committee)
HB 812 would remove the requirement for an appeal bond from a plaintiff in a civil case where the defendant has not asserted a counterclaim.

(-) HB 881 (1/31/06 – Referred to Commerce and Labor Committee)
Under current law, when a city or town leases its property for a term greater than five years, the lessee must post a bond “in such sum as the city or town shall determine, conditioned upon the construction, operation and maintenance of the plant or plants provided for in the granted franchise, right, lease or privilege.” HB 881 would provide that a video provider that develops or operates a cable system would not be required to post performance bonds in excess of \$50,000.

(-) SB 707 (1/30/06 – Passed Commerce and Labor Committee)
SB 707 is similar to HB 881 described above.

(-) HB 906 (1/30/06 – Referred to Courts of Justice Committee)
HB 906 would alter 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 994 (1/23/06 – Referred to General Laws Committee)
HB 994 would allow for OCIPs on public contracts. Surety bonds are specifically mentioned as being allowed in the OCIP. SAA and AIA are working to eliminate surety from the bill.

(-) SB 271 (1/10/06 – Referred to General Laws Committee)
SB 271 is similar to HB 994 described above.

(-) HB 1115 (1/31/06 – Read First Time)
Under current law, when distributing the property of one presumed, but not certainly, dead, the recipient of the estate must post a bond “with surety” in case such person is, in fact, alive. HB 1115 would modify this law to require the recipient of the estate post a bond *without surety*.

(+) HB 1259 (1/23/06 – Referred to General Laws Committee)
HB 1259 would alter bonding laws to require bonds on any project exceeding \$100,000 that is paid for with public funds.

(+) HB 1275 (1/31/06 – Referred to Senate Commerce Committee)
Under current law, when one sues his/her insurer to determine what coverage is available under his/her bond, or to what extent the insurer is liable, the individual may recover attorneys’ fees and other costs from the insurer. HB 1275 would only have this clause apply to insurance policies, and not have it apply to bonds.

(+) HB 1463 (1/23/06 – Referred to Privileges and Elections Committee)
HB 1463 would require one contesting an election to the General Assembly to post a bond of \$100 per precinct contested. Furthermore, the bill would require a bond of \$10 per precinct to contest the election of Governor, Lieutenant Governor, or Attorney General.

(-) HB 1502 (1/27/06 – Referred to Appropriations Committee)
HB 1502 would regulate construction at Virginia Polytechnic Institute and State University. Retainage would be limited to 5%. Bid, performance, and payment bonds would be required on projects costing more than \$1 million. This would not prohibit requiring such bonds on less costly projects. As this bill appears to be exempting construction at Virginia Polytechnic Institute and State University from public bonding statutes, SAA opposes the bill.

(-) SB 675 (1/20/06 – Referred to Finance Committee)
SB 675 is similar to HB 1502 described above.

(+) SB 306 (1/31/06 – Read Second Time)
SB 306 would raise the value of the bond required from motor vehicle dealers from \$25,000 to \$50,000.

(+) SB 371 (1/31/06 – Passed Local Government Committee)
SB 371 would allow subdivisions to use private funding for public construction. Bonds or other security would be required.

(+) SB 545 (1/11/06 – Referred to Education Committee)

SB 545 would establish a scholarship for disabled students. Private schools participating in the program would have to demonstrate fiscal soundness, “by being in operation for at least one year, or providing the Board of Education with a (i) statement by a certified public accountant confirming that the private school is insured and the owner or owners have sufficient capital or credit to operate the school for the upcoming year serving the number of students anticipated with expected revenues from tuition and other sources that may be reasonably expected; or (ii) surety bond or letter of credit for the amount equal to the scholarship funds for any quarter.”

(+) SB 598 (1/11/06 – Referred to Commerce and Labor Committee)

SB 598 would require motor vehicle equity lenders to post a bond in the minimum amount of \$50,000.

(+) HB 1514 (1/24/06 – Assigned to Financial Institutions Committee)

HB 1514 is similar to SB 598 described above.

(+) SB 653 (1/18/06 – Referred to General Laws Committee)

SB 653 would require secondhand dealers to post a bond in the minimum amount of \$50,000.

Washington

(+) HB 1331 (1/31/06 – First Reading in Senate)

Under current law electrical contractors must be licensed and bonded. HB 1331 would elaborate that anyone who advertises, offers to do work, or submits a bid relating to electrical contracting would also have to be bonded and licensed.

(+) HB 2340 (1/30/06 – Second Reading)

Under current law, a mortgage broker must post a surety bond or other security valued between \$20,000 and \$60,000. HB 2340 would, after January 1, 2007, only allow surety bonds to be posted to meet this financial assurance requirement.

(+) SB 6166 (1/27/06 – To Rules Committee For Second Reading)

SB 6166 is similar to HB 2340 described above.

(+) HB 2623 (1/11/06 – Referred to Commerce and Labor)

HB 2623 would require farm labor contractors participating or applying to participate in the federal H-2A visa program to post a repatriation bond or other security. “The purpose of the repatriation bond is to cover travel expenses for returning H-2A workers to their home in their country of origin, and room, board, and other living expenses for H-2A workers while they await repatriation if the farm labor contractor fails to make timely repatriation of H-2A workers when appropriate.”

(+) SB 6352 (1/31/06 – Second Reading)

SB 6352 is similar to HB 2623 described above.

(+) HB 2776 **(1/30/06 – Second Reading)**
HB 2776 would require 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.”

(+) SB 6611 **(1/17/06 – First Reading)**
SB 6611 is similar to HB 2776 described above.

(+) HB 2871 **(1/16/06 – Referred to Transportation Committee)**
HB 2871 would create a regional transportation commission to develop and implement a comprehensive transportation plan within the metropolitan Puget Sound region (Seattle). The treasurer of the commission would have to post a bond.

(+) HB 3060 **(1/18/06 – Referred to Commerce and Labor Committee)**
HB 3060, regulating professional employer organizations, would hold that “A covered employee is not, solely as the result of being a covered employee of a professional employer organization, an employee of the professional employer organization for purposes of general liability insurance, fidelity bonds, surety bonds, employer's liability which is not covered by liability insurance carried by the professional employer organization unless the covered employees are included by specific reference in the professional employer agreement and applicable prearranged employment contract, insurance contract, or bond.”

(+) SB 6672 **(1/18/06 – First Reading)**
SB 6672 is similar to HB 3060 described above.

(-) HB 3162 **(1/23/06 – First Reading)**
HB 3162 would raise the threshold for requiring bid bonds on water-sewer district contracts from \$10,000 to \$40,000.

(+) HB 3185 **(1/24/06 – Referred to Commerce and Labor Committee)**
HB 3185 would allow 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 6541 **(1/31/06 – Second Reading)**
SB 6541 would limit appeal bonds from master settlement agreement signatories to \$100 million.

(=) SB 6619 **(1/17/06 – Referred to Judiciary Committee)**
SB 6619 would raise the value of the bond that could be required from an owner of a dangerous dog from \$250,000 to \$300,000.

(+) SB 6740 **(1/19/06 – Referred to Commerce Committee)**
SB 6740 would require prime residential contractors to submit “the name and address of the person who received or is entitled to receive the most compensation from the contractor,

regardless of whether the compensation is provided as salary, wages, profits, or otherwise, during the term of the contractor's registration; and, if different, each person financially responsible for the prime residential contractor, as defined by RCW 60.04.011; and (ii) whether any person so identified has obtained personal liability under section 2 of this act and has, in the previous two years, entered into an agreement or was a party to a judgment where a residential homeowner was required to pay some or all of such claimed debt.” Alternately, the contractor could post a \$250,000 bond.

West Virginia

(+) HB 2445 (1/11/06 – To Judiciary Committee)

HB 2445 would allow the tax commissioner to require one subject to a general excise tax or obligated to collect that tax to post a surety bond to ensure payment.

(+) HB 2529 (1/11/06 – To Banking and Insurance Committee)

HB 2529 would require a deferred deposit lender to post a \$25,000 bond per licensed location.

(-) HB 4096 (1/24/06 – To Judiciary Committee)

HB 4096 would limit appeal bonds to \$25 million for compensatory damages and \$25 million for punitive damages.

(+) SB 56 (1/11/06 – To Banking and Insurance Committee)

SB 56 is similar to HB 2529 described above, but would specify that the maximum aggregate amount a bond could be would be \$250,000.

(+) SB 71 (1/11/06 – To Government Organization Committee)

SB 71 would raise the value of the bond required from commercial prison contractors from \$100,000 to \$500,000.

Wisconsin

(+) SB 450 (1/30/06 – Referred to House Judiciary Committee)

SB 450 amends the construction lien law in which a lien can be removed from the judgment and lien docket if a surety bond or a deposit is posted with the clerk of the court. Existing law provides that the surety bond may be executed by two or more sureties. This bill would change that to a single surety. It eliminates co-surety.