

# The Surety Association of America

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## MEMORANDUM

**TO:** Government Affairs Advisory Committee

**FROM:** Lenore Marema

**DATE:** April 7, 2006

**SUBJECT:** Legislative Report – March 2006

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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:

- **Search Feature;** *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;*
- **New Laws;** *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;*
- **New Bond Requirements;** *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

### **(-) HR 2830**

**(3/3/06 – Passed Senate; To Conference)**

HR 2830 would exempt a broker-dealers and investment advisors from posting a bond required from those who handle the monies of an employee benefit plan. The Senate version of this bill, which is the Pension Reform Act, exempts only broker-dealers subject to the fidelity bond requirements of a self-regulatory organization. SAA and AIA have met with the Senate committee staff; and they agree that investment advisors should not be exempt from the ERISA bond, but that the ERISA bond is duplicative for broker-dealers because they must obtain a fidelity bond in connection with licensure, and investors have protection under the Securities Investor Protection Corporation (SIPC). While not supporting either the House or the Senate version of this bill, SAA is working with the AIA to persuade the Congressional conference committee members to accept the Senate version of the provision on the ERISA bond. Since both the House and Senate versions of this bill contain some new limitations on the ERISA bond, it is unlikely that the conference committee will reject both.

### **(-) S 2366**

**(3/3/06 – Referred to Finance Committee)**

S 2366 would repeal the recapture bond provisions of the low-income housing tax credit program. HR 4783 is a similar bill. While it is unlikely that an issue like this would move in Congress in a stand alone bill, SAA will meet with Committee staff in the near future to explain the benefits of these bonds. The tax recapture bond provisions are not in either the House or Senate version of the tax reconciliation bills, which would be the most likely vehicle to move this issue.

## Alabama

**\*\*NEW LAW\*\***

### **(-) HB 49**

**(3/10/06 – Signed by Governor; Act 2006-216)**

HB 49 enacts the Uniform Trust Code in Alabama. The following language, which impacts on the trustee bond, is 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 removes a provision requiring that if the trust estate is moved to another state or jurisdiction, than the persons requesting the moving of the estate must post a surety bond and the new trustee must post a surety bond valued at double the amount of the trust estate.

**\*\*NEW LAW\*\***

### **(+) SB 41**

**(3/13/06 – Signed by Governor; Act 2006-229)**

SB 41 regulates professional employer organizations (PEOs). The bill provides that a “covered employee is not, solely as the result of being a covered employee of a PEO an employee of the PEO for purposes of general liability insurance, employment practices liability insurance, fidelity bonds, surety bonds, employer's liability which is not covered by workers' compensation, or liquor liability insurance carried by the professional employer organization unless the covered employees are included by specific reference in the PEO agreement and applicable prearranged employment contract, insurance contract, or bond.” In addition, the director of the Professional Employer Organization Registration Administrative Trust Fund and the State Treasurer, who

would be the trustee and custodian of the Fund, respectively, would have to post bonds. This clarification of the insurance coverage for PEO employees is based on model legislation that is pending in several states.

**(-) HB 754 (3/15/06 – Pending Third Reading)**

Currently, any business, trade, or profession, which has been sued by the municipality and is enjoined from operating, may post a bond to dissolve the temporary restraining order or preliminary injunction. HB 754 would exempt a respondent with a net worth of \$25,000 or less from posting such a bond. Furthermore, a business licensee appealing a ruling concerning the business license tax would not have to post a supersedeas bond if his/her net worth was less than \$20,000. SB 559 is similar to HB 754.

**(=) SB 82 (3/7/06 – Referred to House Judiciary Committee)**

SB 82 would require the owner of a dangerous dog to post an insurance policy or surety bond valued at \$100,000.

**(+) HB 227 (3/27/06 – Referred to Judiciary Committee)**

HB 227 would raise the value of the bond required from those engaged in the small loan business from \$25,000 to \$50,000. In addition, the bill would amend the definition of a small loan to be below \$50,000 as opposed to \$25,000.

**(+) HB 392 (3/8/06 – Referred to Rules 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.

**(+) HB 424 (3/8/06 – Referred to Judiciary Committee)**

HB 424 would require a mortgage lender to post a \$25,000 license bond.

**(-) SB 312 (3/24/06 – Referred to Labor and Commerce Committee)**

SB 312 would remove the surety bond as one option for a concert promoter to post \$5,000 financial assurance.

**Alaska**

**(+) HB 51 (3/20/06 – Referred to Finance Committee)**

HB 51 would require an association of employers that self-insure workers' compensation insurance to post a bond or other security. The administrator of the fund and any third-party administrator handling claims services also would have to post a bond.

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### **Arizona**

**(+) HB 2383** (3/15/06 – Read First Time in Senate)  
HB 2383 would establish PACE, a Program for the All-inclusive Medical Care of the Elderly. Performance bonds or other security would be required from those contracting to be a PACE organization.

### **California**

**(+) HB 2763** (3/14/06 – Referred to Housing Committee)  
HB 2763 would require the operator of re-locatable housing for migrant farm workers to post a performance bond.

**(-) HB 2833** (3/27/06 – Read Second Time)  
HB 2833 would raise the threshold for requiring bonds on projects let by school districts from \$15,000 to \$50,000.

**(+) SB 201** (3/23/06 – Read Second Time in House)  
SB 201 would require those who engage in marine finfish aquaculture to post a surety bond or other financial assurance.

**(+) SB 1431** (3/27/06 – Read Second Time)  
SB 1431 would permit special districts to utilize design-build contractors on projects exceeding \$2.5 million. Bonds would be required.

**(-) SB 1627** (3/29/06 – Read Second Time)  
SB 1627 would prohibit a city or county from requiring a bond for the removal of a wireless telecommunications facility from one constructing or reconstructing such a facility.

**(+) SB 1758** (3/28/06 – Read Second Time)  
SB 1758 would raise the value of the bond required from adoption facilitators from \$10,000 to \$50,000.

### **Colorado**

**(=) HB 1148** (3/27/06 – Passed Third Reading in Senate)  
HB 1148 would render void and unenforceable any indemnity provision in a construction agreement that requires a person, 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** (3/29/06 – Referred to Senate Appropriations)  
HB 1161 would require mortgage brokers to post a \$25,000 bond or other security.

**(+) HB 1280** (3/7/06 – Second Reading)  
HB 1280 would require debt management service providers to post a \$50,000 bond issued by an 'A' rated company. Alternate securities such as irrevocable letters of credit could also be used. SAA supports this new bond and will work to remove the rating requirement. This bill is based on new model legislation from the National Conference of Commissioners on Uniform State Law (NCCUSL) and SAA believes that the model must be amended at NCCUSL for amendments to be achieved at the state level.

**(+) HB 1294** (3/24/06 – Introduced in Senate)  
HB 1294 would require one to post a bond or other security if s/he was unable to prove title to a motor vehicle.

**(+) HB 1367** (3/3/06 – Introduced)  
HB 1367 would require the administrator of the Nursing Peer Health Assistance Program Fund to post a surety bond in an amount determined by the board of directors.

### Connecticut

**(+) HB 5127** (3/21/06 – Favorable Report from Legislative Commissioners Office)  
HB 5127 would require those licensed to hold wrestling matches to post a bond.

**(-) HB 5187** (3/3/06 – Hearing Postponed)  
HB 5187 would provide that a surety waives all of its defenses to a claim on a bond for a public works project if the surety fails to either pay the amount claimed or identify the portion of the claim subject to a good faith dispute within 90 days. Furthermore, the bill would require that any lawsuit brought forth to claim retainage be made within one year of the date that payment of retainage was due. SAA is working with AIA to eliminate the waiver of defenses provision and clarify the retainage provision, if the bill cannot be defeated in its entirety. This is a subcontractors' bill. SB 493 is similar to HB 5187.

**(+) HB 5486** (3/14/06 – To Senate Finance Committee)  
HB 5486 would allow one to require any organization conducting a tuition raffle to post a performance bond to fully fund the prize.

**(-) HB 5677** (3/23/06 – Favorable Report)  
Under current law, when a subcontractor makes a claim for payment and a surety bond is not in place, the general contractor owing the money must place the amount claimed, plus 1%, in escrow, or refuse to do so on the grounds that the work was not performed. If the money was not placed in escrow and the subcontractor is found to have performed the work, the general contractor would also be responsible for attorneys' fees. HB 5677 would amend the current law so the subcontractor also can trigger this process when a surety bond is in place. SAA opposes the extension of this law to situations in which a payment bond is in place because the payment bond already provides a remedy for a subcontractor that has not been paid.

**(+) HB 5690** (3/2/06 – Referred to General Law Committee)  
HB 5690 would require an automobile dealer appealing a ruling requiring him to repurchase a vehicle to post a bond for the amount owed plus \$500 for attorneys' fees.

**(-) HB 5695** (3/21/06 – Referred to Senate Appropriations Committee)  
HB 5695 would raise the threshold for requiring bonding on University of Connecticut construction projects to \$500,000. Currently, such bonding is required on any project publicly let.

**(+) HB 5701** (3/2/06 – Referred to Judiciary Committee)  
HB 5701 would allow one to avoid certain requirements when conveying a unit in a residential common interest community by posting a bond.

**(+) SB 391** (3/27/06 – Favorable Report from Committee)  
Current law requires home heating oil dealers who enter into prepaid contracts or capped price per gallon contracts to obtain futures contracts for 75% of the amount of oil promised or post a bond equal to at least 50% of the funds received. SB 391 would expand these rules to home heating propane gas dealers.

**(=) SB 557** (3/2/06 – Referred to Labor Committee)  
SB 557 would require nonprofit organizations, which choose to post bonds instead of making workers compensation contributions, to post a bond in an amount not exceeding 50% of the maximum rate that the organization, as an employer, would pay annually for employment. Existing law provides that the maximum bond amount is a percentage, but does not define the percentage.

**(-) SB 560** (3/17/06 – Referred to Government Administration Committee)  
SB 560 would expand the existing law requiring the payment of the prevailing wage to “publicly-financed projects.” Currently, the law only covers “public-works projects.” “Publicly-financed project” means a project for new construction for which financial assistance in an amount of \$400,000 or more has been awarded by an awarding authority.”

**(+) SB 619** (3/8/06 – Referred to Judiciary Committee)  
SB 619 would allow the State to seize the car of a person arrested for using the car to engage in unlawful sexual activity with a person under the age of 16. The car could be released by posting cash or bond.

### **District of Columbia**

**(-) LB 630** (2/27/06 – Introduced)  
LB 630 would provide funding for a New Convention Center Hotel. The bill would give the Mayor authority to have the contracts contain whatever payment security s/he deemed appropriate.

### **Florida**

**(+) HB 167** (3/23/06 – Enrolled)  
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.

**(+) HB 247** **(3/27/06 – Pending Review of Committee Substitute)**  
HB 247 would require a winery shipper to post a \$5,000 bond. SB 144 and SB 282 are similar to HB 247.

**(-) 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 also would enact the Uniform Trust Code and is similar to HB 425.

**(+) HB 621** **(3/16/06 – In Insurance Committee)**  
HB 621 would broaden the definition of which entities are considered fiscal intermediary service organizations (FISO) for HMOs. FISOs are required to post fidelity and surety bonds. Under existing law, a fidelity bond must be maintained in the minimum amount of 10% of the funds the FISO handled during the prior year or \$1 million, whichever is less, but in no case less than \$50,000. Existing law also provides that a surety bond must be maintained in the minimum amount of 5% of the funds handled by the FISO during the prior year or \$250,000, whichever is less, but in no case less than \$10,000.

**(-) HB 841** **(3/7/06 – Introduced)**  
HB 841 would limit supersedeas bonds to \$25 million, except for class action lawsuits. If an appellant is an individual or independently-owned and operated business with 400 or fewer full-time employees, the supersedeas bond, at the discretion of the appellant, may not exceed 5% of the appellant's net assets or \$1 million in the aggregate. SAA is working with the local surety association to oppose, or at least modify, this bill to include a clear monetary cap on appeal bonds.

**(+) HB 1207** **(3/29/06 – Referred to Finance and Tax Committee)**  
HB 1207 would create the Indian River Mosquito Control District, which would be run by three commissioners. Each commissioner would have to post a \$5,000 bond.

**(+) HB 1413** **(3/3/06 – Filed)**  
HB 1413 would create the Argyle Fire District, which would be administered by five commissioners. Each commissioner would have to post a \$5,000 bond. The treasurer would have to post a \$10,000 bond.

**(=) HB 1425** **(3/24/06 – In Civil Justice Committee)**  
HB 1425 would require the Advisory Council on Condominiums to review part VI of the law concerning condominium conversions. This section includes financial safeguards, including surety bonds.

**(+) HB 1459** **(3/3/06 – Filed)**  
HB 1459 would raise the value of the bond required from those exhibiting a regulated reptile from \$1,000 to \$10,000.

**(=) HB 1483** **(3/5/06 – Filed)**  
HB 1483 would create the Grove Community District. The board of the district could require the treasurer to post a bond. Bidders on contracts let by the board also could be required to post bonds. SB 2766 is similar to HB 1483.

**(=) HB 1559** **(3/7/06 – Filed)**  
HB 1559 is similar to HB 1483, but for the Viera Stewardship District.

**(+) HB 1629** **(3/7/06 – Filed)**  
HB 1629 would create the Gainesville-Alachua County Regional Airport Authority. The secretary-treasurer and other officers and employees of the Authority would have to post surety bonds.

**(-) HB 7077** **(3/7/06 – Filed)**  
HB 7077 would permit the Orlando-Orange County Expressway Authority to waive performance and payment bond requirements on projects costing less than \$500,000 when the project has been awarded in a way to encourage local small business participation. The Authority would be obligated to pay all those who would have normally found protection under the payment bond had it not been waived. This bill is similar to bills previously enacted for projects in Hillsborough County (Tampa) and Jacksonville, Florida. SAA is working with the Local Surety Association to assure that this bill also contains the same educational requirements for contractors enacted in the previous legislation. The companion bill in the Senate is SB 954. Both bills are moving in the Legislature.

**(+) HB 7133** **(3/16/06 – Introduced)**  
HB 7133 would require landfill or solid waste management facility owners to post a bond or other financial assurance for closure. SB 1528 is similar to HB 7133.

**(-) SB 660** **(3/17/06 – In General Government Appropriations 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 990** **(3/29/06 – In Domestic Security Committee)**  
SB 990 would raise the bond required from one exhibiting a regulated reptile from \$1,000 to \$10,000.

**(-) SB 1350** **(3/30/06 – On Special Order Calendar)**  
SB 1350 would allow maintenance contractors on long-term Department of Transportation (DOT) projects to post only bonds necessary to cover the next year's work. Furthermore, the bill would raise the threshold for DOT contracts from \$150,000 to \$250,000 and would permit the DOT projects to accept alternative security for DOT projects in excess of \$250 million. SAA is working with the AIA and the local surety association to amend the bill so that the \$250 million project threshold is a floor above which alternate security can be accepted, rather than a ceiling

such that bonds can be waived for the entire project. SAA also is working to fight the increase in the bond threshold for the DOT.

**(-) SB 1966** **(3/29/06 – Second Reading)**  
SB 1966 would allow two or more nonprofit corporations, which meet specified criteria, to self insure for surety and other insurance.

**(+) SB 2102** **(2/15/05 – Filed)**  
SB 2102 would create a corporation, governed by trustees, to preserve Babcock Ranch. Each trustee would have to post a \$5,000 bond. HB 1347 is similar to SB 2102.

**(+) SB 2810** **(3/27/06 – Filed)**  
SB 2810 would establish a special district and council to provide services to seniors in Broward County. Those who sign the checks of the council would have to each post a bond valued at \$1,000 for each \$1 million or portion thereof of the council's annual budget.

**Georgia—Adjourned March 31, 2006.**

*The Governor has 40 days from presentment to take action on a bill after the Legislature has adjourned.*

**(+) HB 276** **(To Governor)**  
HB 276 would require one who operates a center designed to provide and install “ignition interlock devices when their use is required by or as a result of an order of a court” to post a \$10,000 continuous surety bond. The bond could not be liable for more than \$20,000 per location.

**(+) HB 1075** **(To Governor)**  
HB 1075 would raise the value of the bond required from used car dealers from \$20,000 to \$35,000.

**(=) HB 1177** **(To Governor)**  
HB 1177 would allow the Department of Transportation, on projects that exceed \$300 million, to make a determination that 100% bonds are not reasonably available. It would then have to require performance and payment bonds of not less than \$300 million and protect the balance of construction costs with a combination of letters of credit and corporate guarantees. SAA member company representatives and staff have assisted in crafting this bill.

**(-) HB 1248** **(House agreed to Senate substitute)**  
HB 1248 would remove a \$500 bond requirement for wine retailers. The bond for general alcohol retailers would remain in place.

**(+) HB 1321** **(3/23/06 – To Governor)**  
HB 1321 would incorporate the City of Johns Creek. Officers and employees of the city could be required to post surety and fidelity bonds.

**(+) HB 1470** **(3/23/06 – To Governor)**  
HB 1470 would incorporate the City of Milton. Officers and employees of the city could be required to post surety and fidelity bonds.

- (+) HB 1477** **(Passed House and Senate)**  
 HB 1477 is similar to HB 1470, but for the City of Darien.
- (+) HB 1478** **(Passed House and Senate)**  
 HB 1478 is similar to HB 1470, but for the City of Demorest.
- (+) HB 1559** **(Passed House and Senate)**  
 HB 1559 is similar to HB 1470, but for the City of Guyton.
- (+) HB 1620** **(Passed House and Senate)**  
 HB 1620 is similar to HB 1470, but for the City of Lithonia.
- (+) SB 609** **(To Governor)**  
 SB 609 is similar to HB 1470, but for the City of Hampton.
- (+) SB 659** **(To Governor)**  
 SB 659 is similar to HB 1470, but for the City of Madison.
- (+) HB 1481** **(Passed House and Senate)**  
 HB 1481 would create the Board of Commissioners of Bartow County. Each commissioner would have to post a \$10,000 bond.
- (+) SB 244** **(Senate agreed with House amendment)**  
 SB 244 would create the Magistrates Retirement Fund, which would be run by a board of commissioners. The board could require the secretary-treasurer of the board to post a surety bond.
- (+) SB 380** **(Senate agreed with House amendment)**  
 SB 380 would create the Agricultural Commodities Commission for Equines. Anyone handling funds of the Commission would have to post a bond in an amount to be determined by the Commissioner.
- (=) SB 414** **(Tabled)**  
 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 505** **(Passed House and Senate)**  
 SB 505 would exempt a mortgage broker or mortgage lender from being licensed and bonded if the broker or lender had an “exclusive written independent contractor agreement with any person that is a wholly owned subsidiary of a financial holding company or bank holding company, savings bank holding company, or thrift holding company,” that meant certain conditions. One of these conditions would be for the company to post the lesser of a \$50,000 bond per person, or a \$1 million bond. Currently, mortgage brokers must post a \$50,000 bond and mortgage lenders must post a \$1 million bond.

## **Hawaii**

**(+) HB 2966** (3/24/06 – Referred to Senate Ways and Means 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 770** (3/17/06 – Passed Second Reading in House)

SB 770 would require mortgage brokers to post a \$50,000 surety bond. “In no event shall the surety bond provide payment for any trebled or punitive damages.”

**(+) SB 2143** (3/24/06 – Passed Second Reading in House)

SB 2143 would require money transmitters to post a \$1,000 bond or alternate security. The bond could be increased to a maximum value of \$500,000.

## **Idaho**

**\*NEW LAW\*\***

**(=) HB 603** (3/14/06 – Signed by Governor; Chapter 42)

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

**\*\*NEW LAW\*\***

**(+) SB 1326** (3/24/06 – Signed by Governor; Chapter 182)

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

**(+) HB 733** (3/29/06 – To Second Reading)

HB 733 would require electricians, electrical contractors, master electricians, specialty electricians, specialty electrical contractors, plumbing contractors, HVAC contractors and specialty contractors to post a \$10,000 bond. The bond could be reduced to \$5,000 if one performed less than \$40,000 of work and had no contract that exceeded \$5,000. HB761 is similar to HB 733.

**(+) HB 822** (3/16/06 – To Business Committee)

HB 822 would slightly modify the bonding requirement for self-funded health care plans. Currently, a fidelity bond of at least \$25,000 is required, with the specific amount to be determined by the director. This bill requires the bond to be “the greater of ten percent (10%) of the contributions received by the plan or ten percent (10%) of the benefits paid during the preceding calendar year,” but not less than \$25,000 nor more than \$500,000. HB 825 is similar to HB 822.

## **Indiana—Adjourned March 14, 2006**

**\*NEW LAW\*\***

**(-) HB 1008** (3/15/06 – Signed by Governor)

HB 1008 allows 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.

**\*\*NEW LAW\*\***

**(+) HB 1016**

**(3/24/06 – Signed by Governor)**

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

**\*\*NEW LAW\*\***

**(+) HB 1097**

**(3/17/06 – Signed by Governor)**

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

**\*\*NEW LAW\*\***

**(+) HB 1114**

**(3/24/06 – Signed by Governor)**

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

**\*\*NEW LAW\*\***

**(+) HB 1134**

**(3/15/06 – Signed by Governor)**

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

**\*\*NEW LAW\*\***

**(+/-) HB 1257**

**(3/21/06 – Signed by Governor)**

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

**\*\*NEW LAW\*\***

**(+) HB 1392**

**(3/28/06 – Signed by Governor)**

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

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

- (1) surety bond was provided in Indiana; and*
- (2) service of process under this section is in addition to another method of service of process authorized by law or court rule.*
- (b) Service of process under this Section shall have the same effect as personal service on the insurance company.*
- (c) Upon receipt of process described in this section, the commissioner shall forward the process to the resident agent designated by the insurance company under section 4(7) of this chapter.*
- (d) The commissioner may adopt rules under IC4-22-2 to establish reasonable fees for the acceptance of process described in this section. Fees collected under rules adopted under this subsection must be deposited in the department of insurance fund established by IC 27-1-3-28.*

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

**\*\*NEW LAW\*\***

**(+) SB 11** **(3/15/06 – Signed by Governor)**  
 SB 11 requires a loan broker who is appealing a decision of the Securities Commissioner to post a \$500 bond or other security.

**\*\*NEW LAW\*\***

**(-/+) SB 229** **(3/14/06 – Signed by Governor)**  
 SB 229 allows two or more educational institutions to enter into an agreement to self-insure and purchase excess insurance, including property and casualty. The trust has to maintain a fidelity bond to cover those responsible for the trust.

**\*\*NEW LAW\*\***

**(-) SB 259** **(3/21/06 – Signed by the Governor)**  
 SB 259 is similar to HB 1001 described above. The bill allows the Indiana Convention and Stadium Building Authority to waive payment bond requirements on capital improvement projects provided that: (1) that (a) an otherwise responsive and responsible bidder is unable to provide the payment bond; or (b) the cost or coverage of the payment bond is not in the best interest of the project; and (2) that an adequate alternative is provided through a letter of credit, additional retainage of at least ten percent (10%) of the contract amount, a joint payable check system, or other sufficient protective mechanism.

**\*\*NEW LAW\*\***

**(=) SB 359** **(3/24/06 – Signed by Governor)**  
 SB 359 alters retainage law for public works contracts. Prior to the passing of this bill, in contracts between general contractors and subcontractors in connection with public works projects, if retainage was withheld, it had to be placed in an escrow account. This bill eliminates this mandate and provides instead that retainage may with placed in escrow as mutually agreed. 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 from the bill in the legislative process.

**\*\*NEW LAW\*\***

**(-) SB 362 (3/20/06 – Signed by Governor)**

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

**(+) HB 1329 (3/14/06 – Engrossed)**

The engrossed version of this bill contains language originally found in SB 112. The bill would allow an HMO to post a bond or cash deposit instead of meeting net worth requirements.

**(=) SB 112 (3/14/06 – Enrolled)**

Originally, SB 112 would have allowed an HMO to post a bond or cash deposit instead of meeting net worth requirements. This provision, however, has been removed, and the bill has no impact on surety issues.

**(-) SB 360 (DEAD)**

SB 360, which would have raised the state bond threshold to \$500,000, failed to pass this year in Indiana. SAA staff spent several days in Indianapolis with the AIA regional manager and state counsel, together persuading the associations for the cities, towns and counties to oppose the bill and the local contractor associations and chambers of commerce to support alternatives, including the SAA Model Contractor Development Program. The bill died in the legislature this year, but the issue of bonding for small and minority contractors still needs to be addressed. SAA plans to work with the local surety association on a contractor education program over the summer.

**Iowa**

**(+) HB 2606 (3/2/06 – Referred to Ways and Means Committee)**

HB 2606 would raise the value of the bond required from one engaged in the business of debt management from \$10,000 per office to \$25,000 per office. Furthermore, the value of the bond required from a mortgage broker would be raised from \$25,000 to \$50,000. HB 2749 is similar to HB 2606. SB 2360 is the Senate bill.

**(-) HB 2703 (3/8/06 – Introduced)**

HB 2703 would require anyone filing a complaint regarding animal feeding operations, who had filed three or more unsubstantiated complaints in the preceding two years, to post a bond.

**(-) HB 2713 (3/27/06 – To the Governor)**

HB 2713 would have the bid threshold for seeking competitive bids on public works projects be decided by a committee. The committee would meet to adjust the threshold on a biannual basis. Presently, the threshold is \$25,000.

**(+) HB 2786 (3/30/06 – Introduced)**

HB 2786 would allow one to post a bond, in twice the amount of the claim, to release a lien on property.

**(+) SB 2347 (3/6/06 – Introduced)**

SB 2347 would require an energy performance contractor to guarantee cost savings with a performance bond.

**(+) SB 2353** **(3/16/06—Read First Time in House)**  
SB 2353 would raise the bond required from debt management service providers from \$10,000 to \$25,000. The bill also would raise the amount of the bond required from a mortgage broker from \$25,000 to \$50,000.

**(-) SB 2360** **(3/6/06 – Introduced)**  
SB 2360 would raise the threshold for bonds on public works projects from \$25,000 to \$100,000.

**(+) SB 2364** **(3/7/06 – Introduced)**  
SB 2364 would require a service contract company, that secured its contracts through a funded reserve but did not have \$100 million of equity, to maintain a security deposit trust fund or post a bond that is not less than “five percent of the gross consideration received by the service company, less claims paid, for the sale of all service contracts issued and in force in this state, but not less than twenty five thousand dollars.” SAA will work to eliminate the adverse selection in this bill.

**(+) SB 2394** **(3/28/06 – Amended)**  
SB 2394 would require manufactured or mobile home retailers to post a \$50,000 bond. HB 2781 is similar to SB 2394.

**(+) HDSB 768** **(3/15/06 – Filed)**  
HDSB 768 would require a manufactured or mobile home retailer to post a \$50,000 bond.

**(+) SDSB 3215** **(2/23/06 – Filed)**  
SDSB 3215 would require a service contract company that secured its contracts through a funded reserve, but did not have \$100 million of equity, to maintain a security deposit trust fund or post a bond that is not less than “five percent of the gross consideration received by the service company, less claims paid, for the sale of all service contracts issued and in force in this state, but not less than twenty five thousand dollars.” HDSB 750 is similar to SDSB 3215.

**(+) SDSB 3254** **(3/8/06 – Filed)**  
SDSB 3254, a study bill, would require manufactured and mobile home retailers to post a \$50,000 bond.

## **Kansas**

**(=) HB 2607** **(3/20/06 – Approved by Governor)** **\*\*NEW LAW\*\***  
HB 2607 allows a court to require a surety bond from one petitioning the court to order the trustee of a revocable trust to exercise or refrain from exercising the trustee’s authority, to require the trustee give an account or to issue such other orders as the court finds will be in the best interests of the settler when the settler becomes incapacitated.

**(+) HB 2645** **(3/28/06 – Approved by Governor)** **\*\*NEW LAW\*\***  
HB 2645 requires vehicle title service agents to post a \$25,000 bond or alternate security.

**\*\*NEW LAW\*\***

**(-) SB 355** (3/29/06 – Approved by Governor)  
SB 355 changes appellate bond requirements. Previously, a bond was required when appealing from a district magistrate judge to a district judge or from a district court to an appellate court. This bill allows the court to require such a bond, but it is not be mandatory.

**(+) HB 2874** (3/24/06 – Conference Committee)  
HB 2874 would raise the value of the bond required from money transmitters from a minimum of \$50,000 to a minimum of \$200,000. The maximum value would be raised from \$200,000 to \$500,000.

**(-) SB 253** (3/23/06 – Conference Committee)  
Currently, the secretary of transportation is allowed to develop rules relating to performance bonds and liability insurance for those holding licenses for outdoor advertising. SB 253 would strike this provision. However, rules for performance bonds are already in place under KAR 36-17-1.

**(+) SB 408** (3/16/06 – Recommended to pass by House Judiciary Committee)  
Originally, SB 408 would have allowed an animal that had been treated cruelly to be given up for adoption or killed after 20 days unless the owner posted a bond valued to care for the animal for thirty days. This language, however, has been removed.

**(+) SB 422** (2/13/06 – Referred to House 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 two 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. HB 2691 is similar to SB 422 .

**(=) SB 516** (3/23/06 – Referred to House Commerce Committee)  
SB 516 would limit retainage on public contracts to 10%.

**(+) SB 575** (3/7/06 – Recommended to Pass by Federal and State Affairs Committee)  
SB 575 would require the treasurer of the Topeka/Shawnee County Riverfront Authority to post a bond.

## **Kentucky**

**\*\*NEW LAW\*\***

**(=) SB 107** (3/28/06 – Signed by Governor; Chapter 54)  
SB 107 requires viatical settlement brokers to maintain liability insurance for \$20,000 per occurrence and \$100,000 in the aggregate, or post \$20,000 cash or bond.

**(+) HB 380** (3/23/06 – Conference Committee)  
HB 380 would appropriate funds for the renovation of the Executive Mansion. Performance and payment bonds would be required.

**(+) HB 462** (3/20/06 – Read Second Time in Senate)

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

**(+) HB 738** **(3/9/06 – First Reading)**

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

**(+) SB 237** **(3/24/06 – To the Governor)**

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

**Louisiana**

**(+) HB 116** **(3/27/06 – Referred to Judiciary Committee)**

HB 116 would require notaries to post a surety bond. HB 514, 701 and 752 are similar to HB 116. SB 631 also is similar to HB 116.

**(-) HB 401** **(3/27/06 – Referred to Appropriations Committee)**

HB 401 would stipulate that performance bonds are not necessary on public contracts that are not required to be bid.

**(+) HB 420** **(3/27/06 – Referred to Commerce Committee)**

HB 420 would require manufacturers, dealers or installers of modular buildings to post a bond. A manufacturer would have to post a \$100,000 bond; a dealer would have to post a \$50,000 bond; an installer would have to post a \$25,000 bond. A separate bond would be required for each place of business.

**(+) HB 436** **(3/27/06 – Referred to Appropriations Committee)**

HB 436 would require couriers who transport public funds to post a fidelity bond with a minimum value of \$100,000.

**(+) HB 502** **(3/27/06 – Referred to Commerce Committee)**

HB 502 would require used motor vehicle dealers to post a \$20,000 bond.

**(+) HB 616** **(3/27/06 – Referred to Commerce Committee)**

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

**(-) HB 801** **(3/27/06 – Referred to Labor Committee)**

HB 801 would require the excess insurer of an employer who defaults on his/her workers' compensation self-insurance to post a bond or other security. This would be in addition to the

bond or security already in place, which would be collected on to pay the default. SB 324 is similar to HB 801.

**(+) HB 929** (3/27/06 – Referred to Commerce Committee)  
HB 929 would require a seller of travel to post a bond with a maximum value of \$25,000.

**(+) HB 993** (3/27/06 – Referred to Commerce Committee)  
HB 993 would allow the State to require a higher value bond from auto title companies whose value of business performed exceeds certain thresholds. The standard bond requirement is \$10,000.

**(+) HB 1050** (3/27/06 – Referred to Commerce Committee)  
HB 1050 would require title loan lenders to post a \$250,000 bond. SB 600 is similar to HB 1050.

**(-) SB 279** (3/27/06 – Referred to Commerce Committee)  
SB 279 would lower the bond amount required from a contractor performing residential construction from 1/3 of the price and not less than \$50,000 to 1/4 of the price.

**(+) SB 374** (3/27/06 – Referred to Commerce Committee)  
SB 374 would require collection agents to post a \$100,000 bond.

**(+) SB 565** (3/27/06 – Referred to Agriculture Committee)  
SB 565 would require loggers and logging companies to post a \$100,000 bond to cover tree theft and damage to property.

**(-) SB 618** (3/27/06 – Referred to Revenue Committee)  
Present law requires nonresident contractors to post a bond on contracts exceeding \$3,000 to ensure tax payments. SB 618 would require these contractors to maintain a blanket bond for all contracts instead of a separate bond for each contract.

## **Maine**

**\*\*NEW LAW\*\***

**(-) HB 1318** (3/23/05 – Signed by Governor; Chapter 500)  
HB 1318 amends the payroll processor bill in Maine. Payroll processors currently are required to bond the highest volume of insurance premiums and tax payments in a three-month period in the previous calendar year, or \$50,000, whichever is greater, with a \$500,000 overall cap on the bond. HB 1318 allows small and unsupervised financial organizations to post a \$10,000 bond, and then look to a state recovery trust fund for the rest of the required bond protection. Payroll processors must remit an initial assessment to the recovery trust, and they are subject to an annual assessment thereafter of 1% of their required bond amount.

**\*\*NEW LAW\*\***

**(-) SB 684** (3/17/06 – Signed by Governor; Chapter 497)  
SB 684 eliminates a \$25,000 surety bond previously required from professional fund raising counsels.

**(+) HB 1467**

**(3/16/06 – Introduced)**

HB 1467 would allow the Tax Assessor, if she deems it advisable, to require the operator of an eating establishment to post a bond or other security.

**Maryland**

**(-) HB 169**

**(Passed the House and Senate)**

H.169, which would allow individual sureties to write surety bonds in Maryland without being licensed as a surety -- in contradiction to the Insurance Code -- is on its way to enactment in Maryland. This bill only had traction because it was presented as a way to assist small and minority contractors to get bonds. SAA worked closely with the AIA local counsel to approach the bill sponsors regarding the potential for fraud that this bill would create. SAA also testified when the bill was heard. The sponsor indicated that the bill needed work; and SAA, AIA and NASBP provided alternative language. The bill passed, however, without any of the industry-sponsored suggestions or protections for the State. In addition to allowing individual sureties to write bonds without pledging verifiable assets to the State, it will increase the size of the surety bond guaranty available from the Maryland Small Business Development Financing Authority to \$1,350,000, and the size of the bond MSBDF can write directly to \$5,000,000. Lastly, the bill includes a reporting requirement on the impact of the bills on small businesses and minority businesses and a three-year sunset. SB 391, the Senate counterpart, has passed the Senate. Both bills are moving in the opposite House, and one will likely be enacted.

**(+) HB 1709**

**(3/6/06 – First Reading)**

HB 1709 would allow a community association to request abatement of a nuisance of a home whose lead paint was peeling. The community association would have to post a surety bond.

**(-) SB 117**

**(3/17/06 – First Reading in House)**

SB 117 would have allowed 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. This provision, however, has been removed. While we supported the bond requirement, we opposed the adverse selection inherent in this proposal.

**(+) SB 193**

**(3/24/06 – Passed Third Reading)**

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 600 felons for a full year of employment. HB 1391 is similar to SB 193 described above, however, it would only fund bonds for 150 felons.

**(+) SB 463**

**(3/17/06 – First Reading in House)**

SB 463 would require a sole proprietor, a limited liability company, a partnership, or a corporate applicant for a license as a title insurance producer to cover employees with a blanket fidelity bond.

**(+) SB 974**

**(2/23/06 – First Reading)**

SB 974 would allow a tenant to purchase a surety bond instead of posting a security deposit. However, the landlord could refuse the surety bond, in which case the surety company would be obligated to refund to the tenant any premium or other charges already paid. HB 1620 is similar to SB 974.

## Massachusetts

**(+) HB 4759** (3/16/06 – Referred to Ways and Means Committee)  
HB 4759 would require anyone issuing bonds for the board of the Hingham Shipyard improvement district to post a \$250,000 bond, or be covered under a blanket bond.

## Michigan

**(=) HB 5324** (3/22/06 – Referred to Senate Banking and Financial Institutions Committee)  
HB 5324 would require money transmission service providers to post a bond between \$500,000 and \$1.5 million. Existing law requires a \$500,000 bond for lenders, mortgage providers, mortgage brokers, mortgage lenders, mortgage servicers, car loan providers and check sellers. While SAA generally supports increases in bond amounts when appropriate, SAA also is concerned that some money transmitters would not qualify for such a large bond.

**(=) HB 5328** (3/22/06 – Referred to Senate Banking and Financial Institutions Committee)  
HB 5328 would require money transmission service providers to post a surety bond valued between \$500,000 and \$1.5 million. While SAA generally supports increases in bond amounts when appropriate, SAA also is concerned that some money transmitters would not qualify for such a large bond.

**(+) HB 5762** (2/28/06 – Referred to Senior Health Committee)  
HB 5762 would require nursing home operators and home for the aged operators to post a bond equal to not less than 125 % of the average balance of patient funds held in the prior year.

**(+) SB 1066** (2/23/06 – Referred to Agriculture Committee)  
SB 1066 would require commercial animal waste handlers and primary animal waste handlers to post a \$25,000 bond. HB 5804 is similar to SB 1066.

**(+) SB 1068** (2/23/06 – Referred to Agriculture Committee)  
SB 1068 would require the owner of a confined animal feeding operation to post a bond or other security. The value of the bond would vary depending on the types and number of animals present. HB 5806 is similar to SB 1068.

## Minnesota

**(+) SB 2519** (3/16/06 – Second Reading)  
SB 2519 would allow one to post a bond to release a lien. HB 3073 is similar to SB 2519.

**(+) SB 3022** (3/27/06 – Referred to Commerce Committee)  
SB 3022 would require a boxing promoter to post a surety bond. HB 3484, HB 3619, HB 3655 and HB 4062 are similar to SB 3022. SB 3123, SB 3317 and SB 3617 also are similar to SB 3022.

**(+) HB 3845** (3/22/06 – Introduced)  
HB 3845 would raise the value of the bond required from auctioneers from between \$1,000 and \$3,000 to not less than \$20,000.

**(-/+ ) SB 3176** (3/15/06 – Referred to State and Local Government Operations Committee)  
SB 3176 would allow a residential building contractor, residential remodeler, residential roofer, or manufactured home installer to post a \$40,000 bond to avoid having his/her license suspended, revoked or denied. Furthermore, the bill would require a manufactured home

installer to post a \$2,500 license bond, and it would raise the value of the bond required from an electrical contractor from \$5,000 to \$25,000. Also, the bill would create a “Contractor Recovery Fund” to:

- (1) compensate owners or lessees of residential real estate who meet the requirements of this section;
- (2) reimburse the department for all legal and administrative expenses, disbursements and costs, including staffing costs, incurred in administering and defending the fund;
- (3) pay for educational or research projects in the field of residential contracting to further the purposes of sections 326B.801 to 326B.825; and
- (4) provide information to the public on residential contracting issues.

**(-/+)** **HB 3525** **(3/29/06 – Second Reading)**

HB 3525 was similar to SB 3176 described above. All of these provisions have been removed, however.

**(+)** **SB 3375** **(3/23/06 – Referred to Judiciary Committee)**

SB 3375 would require one using the Internet to access personal information from the DMV to post a bond or other security. HB 3681 is similar to SB 3375.

### **Mississippi—Adjourned March 31, 2006**

**\*\*NEW LAW\*\***

**(-)** **SB 2328** **(3/9/06 – Approved by Governor)**

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

**\*\*NEW LAW\*\***

**(+)** **SB 2439** **(3/15/06 – Approved by Governor)**

SB 2439 requires third-party payment processors to post a \$50,000 surety bond or other security for each debt management service provider it contracts with, but no more than \$150,000.

**\*\*NEW LAW\*\***

**(=)** **SB 2556** **(3/9/06 – Approved by Governor)**

SB 2556 lowers 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.

**\*\*NEW LAW\*\***

**(=)** **SB 2727** **(3/9/06 – Approved by Governor)**

SB 2727 is similar to SB 2556, but would lower the time frame to 30 days.

**\*\*NEW LAW\*\***

**(+)** **SB 2742** **(4/3/06 – Approved by Governor)**

SB 2742 would require alarm contractors to post a \$300,000 general liability and errors and omissions policy or surety bond.

**(+)** **HB 1663** **(3/30/06 – Enrolled)**

HB 1663 would create the Panola County Utility District. Contracts entered into by the District exceeding \$20,000 would have to be bonded. The Governor has until April 18, 2006 to sign this bill.

## Missouri

### **(-) HB 1380**

**(3/28/06 – Committee Substitute)**

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 is similar to HB 1380.

### **(+) HB 1730**

**(2/13/06 – Read Second Time)**

HB 1730 would allow the State to require a bond from those constructing facilities that utilize innovative wastewater treatment technology. A bond would not be required if the design had been approved by a federal agency or environmental regulatory agency of another state. SB 1081 is similar to HB 1730.

### **(+) HB 1783**

**(3/14/06 – Referred to Rules Committee)**

HB 1783 would require that a scholarship granting organization post a bond if it receives more than \$50,000 a year in donations.

### **(+) HB 1909**

**(3/2/06 – Read Second Time)**

HB 1909 would require a debt management service provider to post a \$50,000 bond or other security issued by an 'A' rated company. SAA will work for a more reasonable rating requirement.

### **(+) HB 1975**

**(3/9/06 – Referred to Financial Institutions Committee)**

HB 1975 would raise the value of the bond required from a check seller from \$25,000 to \$100,000. Upon renewal of the license, the bond could be increased to \$1 million, depending on the type and amount of business conducted.

### **(+) HB 1993**

**(3/10/06 – Read Second Time)**

HB 1993 would require the Director of Revenue of Missouri and any assistants to post a \$100,000 surety bond.

### **(=) SB 908**

**(3/6/06 – Read First Time in House)**

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

### **(+) SB 1110**

**(3/1/06 – Second Read)**

SB 1110 would require one who did not prepay for receiving delivery of a repossessed vehicle to post a \$25,000 bond.

### **(+) SB 1181**

**(3/6/06 – Read Second Time)**

SB 1181 would raise the value of the bond required from new motor vehicle franchise dealers, used motor vehicle dealers, wholesale motor vehicle dealers and boat dealers from \$25,000 to \$125,000.

## Nebraska

### **(+) LB 876**

**(3/29/06 – Engrossed)**

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

## New Hampshire

**\*\*NEW LAW\*\***

**(+) SB 72** (3/3/06 – Signed by Governor; Chapter 9)  
SB 72 raises the value of the bond required from public adjusters from not less than \$10,000 to at least \$20,000.

**(+) HB 1126** (3/7/06 – Passed House)  
HB 1126 would require mortgage bankers to post a \$20,000 surety bond. Currently, only mortgage brokers are required to post this bond.

## New Jersey

**(+) 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. SB 1532 is similar to HB 1655.

**(+) HB 2322** (3/6/06 – Referred to Appropriations Committee)  
HB 2322 would allow one to post a bond to discharge a lien to ensure payment to a victim of a crime.

**(+) HB 2334** (3/6/06 – Referred to Appropriations Committee)  
HB 2334 would require inmates to pay for their incarceration. The State would have a lien against an inmate's property to cover this charge. An inmate could discharge this lien by posting a bond. HB 2760 is similar to HB 2334.

**(+) HB 2884** (3/21/06 – Referred to Education Committee)  
HB 2884 would require the secretary of a school district to post a bond if the district did not have a treasurer.

**(-) SB 1071** (3/13/06 – Amended)  
SB 1071 would, in any municipality, allow treasurers, tax collectors, municipal court judges, and clerks to be covered under a blanket bond provided by a joint insurance fund, but not by a surety company. HB 2514 is similar to HB 1071.

**(+) SB 1321** (2/6/06 – Introduced)  
SB 1321 would require a timeshare developer to put purchasers' funds into escrow until the cancellation period has ended. Alternately, the developer could post a bond. HB 2705 is similar to SB 1321.

**(+) SB 1649** (3/20/06 – Introduced)  
SB 1649, relating to condominium development, requires one to install proper roadway monuments. One could elect to post a surety bond to avoid installing these monuments until completion of the grading of the streets.

**(+) SB 1657** **(3/20/06 – Introduced)**  
SB 1657 would require a seller of travel to post a \$50,000 bond or other security for each business location. The bond would only have to be \$20,000 if the seller only sold intrastate travel.

### **New York**

**(-) HB 40** **(1/5/05 – Introduced)**  
HB 40 would establish construction rules for a construction project in the Westhampton Beach union free school district. This bill, which is applicable to a single project, is similar to a number of other pending bills in New York in its provisions on retainage. 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. While the contract would contain a provision requiring that the contractors make prompt payment to their subcontractors, there are no requirements in this bill for performance or payment bonds from the contractors. Rather, in the event of a failed payment to the subcontractors or a payment dispute between the contractors and subcontractors, the union free school district would withhold future payments from the contractors and use the money to pay the subcontractors, or hold the money in an interest-bearing account until the dispute were resolved. SAA is proposing an amendment to this bill that would specifically require adherence to section 137 of the State Finance Law, which requires payment bonds.

**(-) SB 1132** **(3/22/05 – Second Report)**  
SB 1132 contains similar provisions to HB 40, but for the Riverhead central school district.

**(+) HB 3498** **(3/7/06 – To Rules Committee)**  
HB 3498 would establish a loan fund to aid in library construction. The bill would require that any project using this fund include surety bond provisions.

**(+) HB 10100** **(3/1/06 – Introduced)**  
HB 10100 would require anyone who is not a vendor, but is collecting motor vehicle taxes, to post a bond. SB 6852 is similar to HB 10100.

**(+) HB 10255** **(3/13/06 – Referred to Senate Finance Committee)**  
HB 10255 would raise the value of the bond required from bail bondsmen from \$5,000 to \$10,000.

**(+) HB 10257** **(3/14/06 – Referred to Senate Finance Committee)**  
HB 10257 would contain provisions relating to school construction in Syracuse. Performance and payment bonds would be required. SB 6458 is similar to portions of HB 10257.

**(-) SB 5463** **(3/6/06 – Amended)**  
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 6883** **(3/3/06 – Introduced)**

SB 6883 would change the timing during which one could sue on the payment bond. Presently, one has 90 days from the last day labor was performed or material furnished. This bill would change that to 90 days from the submission of an application for payment. HB 10207 is similar to SB 6883.

**(-) SB 7126** **(3/23/06 – Referred to Finance Committee)**

SB 7126 would raise the threshold for requiring competitive bidding on the purchase of services and commodities from \$50,000 to \$100,000. Also, performance and payment bonds could be dispensed with when a small, women or minority-owned business was awarded a contract below \$500,000.

**Ohio**

**(+) HB 454** **(3/21/06 – Recommended by Committee)**

HB 454 would require money transmitters to post a surety bond or other financial security valued between \$300,000 and \$2 million.

**(+/-) HB 530** **(3/15/06 – Referred to Finance Committee)**

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

**Oklahoma**

**(=) HB 2657** **(2/7/06 – Second Reading)**

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 is similar to HB 2657.

**(=) HB 2813** **(3/6/06 – First Reading in Senate)**

Originally, HB 2813 was similar to HB 2657, described above. After being amended, however, the bill no longer raises the bond amount.

**(+) HB 3009** **(3/23/06 – Second Reading in Senate)**

HB 3009 would require real estate settlement agencies to post a blanket fidelity bond covering all employees with a minimum value of \$150,000.

**(-) HB 3120** **(3/16/06 – Engrossed)**

HB 3120 would limit supersedeas bonds to the lesser of \$25 million or 10% of the net worth of the judgment debtor.

**(-) SB 558** **(3/7/06 – First Read in House)**

Originally, SB 558 would have raised the threshold for bonding on public works contracts from contracts exceeding \$25,000 to contracts exceeding \$100,000. The latest version of SB 558 has reduced the \$100,000 amount to \$50,000. Public liability insurance and workers' compensation insurance would be required for contracts less than \$100,000.

**(+) SB 1717** (3/16/06 – Second Reading in House)

SB 1717 would change the value of the bond required from a cigarette distributor from \$1,000 to being the greater of \$1,000 or three months estimated tax liability.

**(-) SB 1789** (3/16/06 – Second Reading in House)

SB 1789 would raise the threshold for holding retainage on public contracts from \$25,000 to \$50,000.

### **Pennsylvania**

**(+) HB 2493** (3/15/06 – Referred to Judiciary Committee)

HB 2493 would require private investigators to post a bond.

### **Rhode Island**

**(+) HB 7351** (2/15/06 – Introduced)

HB 7351 would require contractors to post a bond. The value of the bond would be determined by rule and range from \$1,000 to \$500,000, depending on the contractor. The bond would have to be issued by a company rated 'A' or better. SAA supports this new bond requirement and will work to change the rating requirement. SB 2866 is similar to HB 7351.

**(+) SB 2928** (3/9/06 – Referred to Labor Committee)

SB 2928 would require underground utility contractors to post a \$10,000 bond.

### **South Carolina**

**(+) HB 4532** (3/17/06 – To Senate)

HB 4532 would raise the value of the bond required from automobile wholesalers and dealers from \$15,000 to \$25,000.

**(+) HB 4769** (3/7/06 – Referred to Ways and Means Committee)

HB 4769 would require schools receiving more than \$50,000 in special needs scholarship funds to demonstrate their financial viability. One way to do this would be through the posting of a surety bond.

**(+) SB 1219** (3/7/06 – Introduced)

SB 1219 would raise the value of the bond required from a residential builder from \$15,000 to \$30,000. Furthermore, a residential specialty contractor would also be required to post a \$30,000 bond. Presently, such a contractor must post a bond in an amount determined by a state building commission.

### **Tennessee**

**(+) HB 3676** (2/27/06 – Passed First Consideration)

HB 3676 would require public adjusters to post a \$50,000 bond. This is based on a new NAIC model act, although the bond amount is higher than in the model legislation. SB 3983 is similar to HB 3676.

**(+) HB 3463** (3/8/06 – In Commerce Committee)  
HB 3463 would raise the value of the bond required from a home improvement contractor from \$10,000 to \$25,000. SB 3676 is similar to HB 3463.

**Utah—Adjourned March 1, 2006**

**(-) HB 145** (3/17/06 – Signed by Governor) **\*\*NEW LAW\*\***  
HB 145 repeals a requirement that the treasurer of the Grazing Advisory Board post a bond.

**(-) HB 291** (3/17/06 – Signed by Governor) **\*\*NEW LAW\*\***  
HB 291 reduces the minimum amount of a bond required to ensure tax collection from \$50,000 to \$25,000.

**(+) SB 79** (3/15/06 – Signed by Governor) **\*\*NEW LAW\*\***  
SB 79 requires debt management service providers to post a \$100,000 bond or alternate security. The bond has to be issued by a company with a rating of at least A. This is based on a new NCCUSL model act, although the amount of the bond is higher than in the model legislation.

**(-) SB 80** (3/10/06 – Governor Signed) **\*\*NEW LAW\*\***  
SB 80 authorizes public-private partnerships for the construction of tollways. Payment and performance bonds are allowed, but are not specifically required.

**(=) HB 100** (2/21/06 – Second Reading in Senate)  
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; and  
(ii) lost net revenue;”  
Originally, the bill would have also required the bond to cover “consequential damages, including increased construction costs, because of the litigation;”

**Vermont**

**(+) SB 158** (3/23/06 – Passed Senate)  
SB 158 would require asset locators to post a \$10,000 bond.

**(+) SB 228** (3/24/06 – In House Commerce Committee)  
SB 228 would require home heating oil, kerosene, or liquefied petroleum gas dealers entering into prepaid contracts to post a financial security or maintain futures contracts. If choosing to post a surety bond, the bond would have to be “in an amount not less than 50 percent of the total amount of funds paid to the dealer by consumers pursuant to prepaid heating oil, kerosene, or liquefied petroleum gas contracts.”

**Virginia—Adjourned Regular Session on March 11, 2006**

**\*\*NEW LAW\*\***

**(-) HB 812** (3/23/06 – Approved by Governor; Chapter 116)

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.

**\*\*NEW LAW\*\***

**(-) HB 1404** (3/10/06 – Approved by Governor; Chapter 76)

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 1404 provides that a video provider that develops or operates a cable system is not required to post performance bonds in excess of \$50,000. SB 706 is similar to HB 1404.

**\*\*NEW LAW\*\***

**(=) HB 1275** (3/30/06 – Approved by the Governor)

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

**\*\*NEW LAW\*\***

**(+) SB 306** (3/23/06 – Approved by Governor; Chapter 172)

SB 306 raises the value of the bond required from motor vehicle dealers from \$25,000 to \$50,000.

**(-) HB 64** (Engrossed)

HB 64 raises raise the threshold for surety bonds on public works projects from \$100,000 to \$250,000 for transportation related projects. The bill passed both Houses and will be sent to the Governor soon. This bill started out as an increase to the state bond threshold from \$100,000 to \$500,000 for all public construction projects. SAA and AIA worked together on this bill, with AIA organizing substantial local opposition and SAA providing testimony, talking points and letters to the Legislature from the local surety association and SAA staff. SAA now is analyzing the bill as engrossed to determine if it is actually limited to transportation contracts let by the Virginia Department of Transportation.

**(=) HB 340** (3/15/06 – Engrossed)

HB 340 would require the owner of a dangerous dog to maintain \$100,000 in liability insurance or a \$100,000 surety bond. HB 1039 and SB 200 are similar to HB 340.

**(+) HB 525** (3/7/06 – Engrossed)

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** (3/7/06 – Engrossed)  
HB 693 would allow a bond, letter of credit or cash to secure escrow deposits for time-share purchases. Currently, only a surety bond is permitted.

**(+) HB 1259** (3/7/06 – Engrossed)  
HB 1259 would alter bonding laws to require bonds on any project exceeding \$100,000 that is paid for with public funds.

**(+) HB 1463** (3/15/06 – Engrossed)  
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** (3/27/06 – Passed House and Senate)  
HB 1502 would allow Virginia Polytechnic Institute and State University greater freedom in many functions, including construction projects. The bill would essentially exempt these state universities from public procurement laws, including bonding requirements. 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.

**(+) SB 371** (3/7/06 – Engrossed)  
SB 371 would allow subdivisions to use private funding for public construction. Bonds or other security would be required.

**(-) SB 706** (3/9/06 – Engrossed)  
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.” SB 706 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.

**Washington—Adjourned March 8, 2006**

**(+) HB 2340** (3/9/06 – Signed by Governor; Chapter 19) **\*\*NEW LAW\*\***  
Prior to the passage of this bill, a mortgage broker had to post a surety bond or other security valued between \$20,000 and \$60,000. HB 2340 will, after January 1, 2007, only allow surety bonds to be posted to meet this financial assurance requirement.

**(+) HB 2776** (3/14/06 – Signed by Governor; Chapter 36) **\*\*NEW LAW\*\***  
HB 2776 requires home heating fuel service contract providers to either insure the contracts for reimbursement or maintain a funded reserve and a financial security “having a value of not less than five percent of the gross consideration received, less claims paid, on the sale of the service contract for all service contracts issued and in force, but not less than ten thousand dollars.”

**\*\*NEW LAW\*\***

**(+) HB 3185**

**(3/17/06 – Signed by Governor)**

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

**\*\*NEW LAW\*\***

**(+) SB 6428**

**(3/24/06 – Signed by Governor; Chapter 183)**

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

### **West Virginia—Adjourned March 11, 2006**

**\*\*NEW LAW\*\***

**(+) SB 673**

**(3/23/06 – Approved by Governor)**

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

**(-) HB 4513**

**(3/11/06 – Completed Legislative Action)**

HB 4513 would provide as follows: “In any case in which an employer is in default to the prior employers fund, or has liability to the uninsured employers fund or is in default on a policy or otherwise fails to maintain mandatory workers' compensation coverage, the commission may bring an action in the circuit court of Kanawha County to enjoin the employer from continuing to operate the employer's business. Provided, however, the commissioner may, in his or her sole discretion, and as an alternative to this action pursuant to this subsection, require the employer to file a bond, in the form prescribed by the commissioner, with satisfactory surety in an amount not less than 150% percent of the total payments, interest and penalties.

**(-) HB 4622**

**(3/11/06 – Passed Senate)**

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

**(+) SB 759**

**(3/11/06 – Completed Legislative Action)**

SB 759 would allow design-build construction on transportation projects. Bonds would be required.

### **Wisconsin**

**\*\*NEW LAW\*\***

**(+) SB 450**

**(3/27/06 – Approved by Governor; Act 204)**

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. Previously, the law provided that two or more sureties could issue the bond. This bill changes that to a single surety.

**Wyoming—Adjourned March 11, 2006**

**\*\*NEW LAW\*\***

**(-) HB 10**

**(3/8/06 – Governor Signed; Chapter 2)**

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

**\*\*NEW LAW\*\***

**(+) HB 135**

**(3/24/06 – Governor Signed; Chapter 98)**

HB 135 allows construction manager and construction manager at risk contracts. Bonds are required.

**\*\*NEW LAW\*\***

**(+) SB 69**

**(3/10/06 – Governor Signed; Chapter 34)**

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