



The Surety & Fidelity
Association of America

2007 ANNUAL

STATE LEGISLATIVE REPORT

ON

COMMERCIAL SURETY

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2007 IN REVIEW

November 2006 Elections Change State Agendas. The trial lawyers resurrected their bad faith and anti-tort reform agenda in states that experienced a turnover in leadership as a result of the November 2006 elections. While the industry still sought tort reforms, including some of the successful asbestos reform campaigns that it has achieved in recent years, in 2007 most of the industry's efforts were spent on the defense against trail bar initiatives.

Significant new bad faith bills were enacted in **Maryland** and **Washington**. **Maryland** HB 425 creates a new administrative process in the Maryland Insurance Department to determine if an insurer failed to act in good faith in first-party claims. Damages in this administrative proceeding are limited to the contractual amount plus attorneys' fees and interest, but the Department is given new authority to impose a civil penalty of up to \$125,000 for a single violation. **Washington** SB 5726 creates a first-party bad faith action and contains likely the lowest standard of bad faith in the country. The new law defines a first-party claimant as "anyone asserting a right to payment as a covered person under an insurance policy." Treble damages and attorneys' fees can be awarded in first-party bad faith suits against insurers and also for violations of the state insurance unfair claims settlement practices act and regulations. The insurance industry and business communities are working together on a referendum to reverse SB 5726 in the November elections. All attempts to compromise on a corrective bill for 2008 failed, leaving putting the issue to the voters in November as the only course of action.

New York Governor Spitzer vetoed SB 6306, which would have prohibited insurers from denying a claim because of a late notice unless the insurer can demonstrate that it suffered "material prejudice" as a result of the late notice. This issue will be back in New York, quite possibly when the New York legislature reconvenes this fall. In his veto message, the Governor indicated support for the concept that insurance coverage should not be denied because of "technicalities" and said that he would sign the bill if it were well drafted to achieve that purpose. The New York Insurance Department already has circulated a revised draft of legislation, and the new draft does not include surety and fidelity. The new draft still is, however, problematic for the claims operations of insurers.

SFAA worked with AIA and NASBP to defeat **Rhode Island** SB 192, which was a bad faith bill aimed directly at surety. It would have permitted any obligee, principal or claimant under a payment or performance bond to bring an action against the surety when it is alleged that the surety wrongfully and in bad faith refused to pay or settle a claim or refused to perform its obligations under the bond. Compensatory and punitive damages were permitted, as well as reasonable attorneys' fees. SFAA retained a local surety claims lawyer to testify at the hearing, in addition to the lobbying efforts of the AIA's state counsel and CNA Surety's local counsel. At SFAA's request, several SFAA members wrote letters of opposition to SB 192 to the Rhode Island House leadership. SFAA also contacted Rhode Island legislators who are members and officers of the National Conference of Insurance Legislators.

Working in coalitions with the business community, the insurance industry also defeated trial bar bad faith initiatives in **Minnesota**, **Mississippi** and **New Hampshire** this year.

Many Commercial Surety Issues Addressed. As usual, there was a high volume of commercial surety legislation, much of which related to various license bonds.

Of note this year was a significant increase in activity on home improvement license bonds. New bond requirements were enacted in **Iowa** and **Tennessee**, with another new bond requirement on the Governor's desk for signature in **New Jersey**. **Florida** authorized regulations that could require a license bond as well. **Oregon** overhauled its license bond requirements, creating several new license classifications, with large increases in the bond amounts for a few licenses. **Minnesota** also updated its law and increased the amount of several license bonds. The surety industry inched closer to a statewide home service contractor bond in **New York**. Hearings were conducted around the State on consumer problems with contractors, which may pave the way for future legislation requiring a license bond. Legislation that would have created a new license bond for various types of contractors failed to pass in **Arizona, Arkansas, Illinois** and **Maine**.

Expanding the bond requirement or increasing the amount of an existing motor vehicle license bond also was an active area in 2007. **Colorado, Nebraska** and **Nevada** increased the amount of bonds; and **Arkansas, Colorado, Florida, Missouri** and **Wyoming** expanded the existing bond requirement to new types of vehicles.

License bonds for financial services providers remained an active area, which may in part be fueled by the concerns of state and federal legislators with consumer issues with subprime lenders and other financial services providers. In 2007, there was a shift in focus to money services, credit counseling and debt management services due to recent model legislation from the National Commissioners on Uniform State Law (NCCUSL). **Colorado** became one of the first states to enact the NCCUSL Uniform Debt Management Services Act, which contains a \$50,000 license bond requirement. **Missouri** enacted a new \$100,000 bond requirement in a law that is different from the NCCUSL Uniform Act. **Wisconsin** has the Uniform Act pending, and **California** and **Massachusetts** have bills pending to license and bond providers of credit counseling and debt management services.

Alaska enacted the NCCUSL Uniform Money Services Act, which requires money transmitters to be post a \$25,000 license bond, plus \$5,000 per location up to a maximum bond of \$150,000. **Arkansas** enacted the Uniform Act but doubled the bond amounts with a \$250,000 maximum bond. Georgia doubled the amount of its existing bond requirement.

Many states already require license bonds for mortgage brokers and/or lenders. In 2007, **Minnesota** and **Montana** enacted new bond requirements; and **Rhode Island** increased the amount of an existing license bond.

More details about these new bonds and other commercial surety enactments follow in the materials below.

New Commercial Issues. Commercial surety legislation is widely varied among the states. At the end of this report, there are summaries of actions taken on some commercial surety issues that recently have surfaced in several states, including bonding for promoters of boxing matches, wholesale distributors of prescription drugs, preferred provider networks, wine shippers, private investigators and rental security deposits, among others.

There also were some enactments in individual states that provided a unique new bond opportunity that could spread to other states. **Colorado** SB 249 requires independent settlement service providers in the real estate industry to post a \$25,000 bond in connection with registration. **Nebraska** LB 124 requires a \$50,000 surety bond for licensure as a business offering retail sales installment contracts. **New Hampshire** HB 895 requires court reporters to be licensed and to post a \$1,000 bond. The bond is conditioned that the court reporter does not violate any of the duties, terms, conditions, provisions or requirements of the new law. The new law also allows any aggrieved person to maintain an action on the bond directly. **Texas** HB 2138 requires property tax lenders to be licensed and bonded. The bond amount is \$50,000 for the initial license and \$10,000 for each additional license required.

Of General Interest. Several states made major changes in their rating laws this year. **Louisiana** HB 960 abolished the long standing Insurance Rating Commission and transferred its rate and form review function to a newly established Office of Consumer Advocacy within the Insurance Department. The new law also provides for a file and use rating system. **New Mexico** SB 483 repealed the prior approval system for rates and went to a competitive rating system. **North Dakota** SB 2296 creates a new rating system based on competitive and non-competitive markets. For surety and fidelity, a competitive market is presumed to exist, which means that a use and file system applies. In other action, **South Dakota** HB 1180 repeals the countersignature law.

SFAA Priority Issues in Commercial Surety

- **Illinois Power of Attorney Filings.** SFAA and AIA worked together to draft **Illinois** HB 780 and to have it introduced. The bill would give sureties the option of filing powers of attorney with the circuit courts in Illinois or attaching the POA to the bond. This legislation is needed to alleviate the current burden of annual filings required in some state circuit courts, most notably in Cook and Du Page Counties. This was the second year that we sought a legislative solution to the filing problems in Illinois. Last year, the bill passed the Senate; but time ran out in the House in a short session. This year, the bill has passed out of the House Judiciary Committee; and the Cook County Circuit Courts stopped it there.

SFAA and AIA meet with Cook County Circuit Court Judge Deborah Mary Dooling, the Supervising Judge of the Surety Section of the Court. The Judge made it clear that Cook County is not going to dismantle its filing system for sureties who write bonds in Cook County. This is an issue of authority and revenue for Cook County. As a result of the meeting, we went back to our bill sponsor and sought to have the bill amended to carve out Cook County so that HB 780 would eliminate the filings in Du Page County and the possibility that any other circuit court in Illinois would initiate such a filing system. Our bill sponsor would not support that approach and suggested that we work out a compromise bill for 2008 that would include Cook County. The SFAA Government Affairs Advisory Committee will discuss a strategy for 2008 at its September 5 meeting.

- **Agent for Service of Process.** Since SFAA and AIA obtained legislation in Indiana in 2006 to fix the agent for service of process issue there, **Nebraska** is the only state that does not designate a state official to receive service of process for a surety that writes a bond required or

permitted by federal law for a risk in the state. 31 USC 9306 applies to require sureties to file a resident agent in the federal district court in Nebraska. SFAA and AIA have met with Nebraska Insurance Director Tim Wagner, and he is willing to solve the problem by way of a regulation or insurance department bulletin. The Department requires all insurers to file a resident agent in connection with licensure in the State. Based on that authority, the Department believes it could issue a “clarifying” bulletin to state that the Insurance Department would accept service of process for 31 USC 9306 to the extent that the surety could not otherwise be served in the State. SFAA and AIA agreed to wait until after the Nebraska legislative session and will pursue this issue in the fall.

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Introduction

Because of the diversity of the business of its members, SFAA tracks all state and federal fidelity and surety legislation. In reporting legislative developments, however, SFAA has moved to reports based on the three major lines of business — contract, commercial and fidelity. This report contains the 2007 enactments on commercial surety. Interested SFAA members can access the reports on contract surety and fidelity on the SFAA website.

This SFAA Annual State Legislative Report on Commercial Surety contains two major parts. One section features a summary of the 2007 state legislation on commercial surety issues that are either priorities for SFAA, issues that our members have asked SFAA to track or new issues that SFAA has seen in the 2007 state legislative sessions. The second section is a state-by-state compilation of the 2007 state enactments relating to commercial surety. Most of the enactments deal with new bond opportunities and elimination or reduction of existing bond requirements.

Summary of State Legislative Activity on Key Commercial Surety Issues

LICENSE BONDS

Home Improvement Contractors

There was a significant amount of legislation in 2007 to require various types of contractors to be licensed and bonded or to increase the amount of existing bonds. Particularly in the area of home service contractors, SFAA has noted that the legislation was more of a hybrid of a license bond and either a performance bond or an insurance policy. State legislators increasingly want the bond to protect the injured consumer, allowing the consumer a direct claim on the bond. In addition, some proposals require the bond to respond to some extent to actual damages resulting from the contractor’s failure to comply with the terms of licensure, possibly even completion of the contract.

At the May 2007 Government Affairs Advisory Committee meeting, the Committee cited the California contractors’ license bond law as a model that SFAA should use in analyzing this legislation. While a pure license bond always will be the desired result of such legislation, the

California law provides an example of some consumer protections with a clear aggregate limit to make it possible for sureties to underwrite and price the license bond.

--Enactments. **Iowa** HB 908 requires plumbers, HVAC, refrigeration and hydronic contractors to be licensed. Those seeking a license as a master would have to post a bond in an amount to be determined by regulations. **Florida** SB 404 requires the Construction Industry Licensing Board (Board) to promulgate rules for determining the financial stability of contractors subject to certification and registration, which may include minimum requirements for net worth, cash and bonding. For Division I certificate holders, this must be no more than \$20,000; for Division II certificate holders, this must be no more than \$10,000. Fifty percent of the financial requirements may be met by completing a 14-hour financial responsibility course approved by the Board. Division I certificate holders are general contractors, residential contractors and building contractors. Division II contractors are the following contractors: roofers, sheet metal, air conditioning, mechanical, pool, plumbing, underground utility and excavation. This law became effective on July 1. **Minnesota** HB 1208/SB 998 increases the license bond for electrical contractors from \$5,000 to \$25,000 and the license bond for residential roofing contractors from \$5,000 to \$15,000. The new law also requires all electrical inspectors to be licensed as a master or journeyman. A \$1,000 bond is required. Regarding plumbers, the new law provides that only the \$25,000 state license bond may be required. The new law repeals a provision in the prior law that allowed the bond required by any locality to be substituted for the state license bond. **Minnesota** HB 122/SB 62 repeals the authority of a city to require plumbers to post a license bond and specifically prohibits them from doing so. The new law provides that the only license bond that may be required of a plumber is the bond required by the State. The new law provides that a city still may require a performance bond if the contract between the plumber and the city requires one. **North Carolina** HB 1338 increases the dollar thresholds for the classes of licenses required of electrical contractors. The new law increases the amount of a single electrical contracting project in which a limited licensee may engage from \$25,000 to \$100,000 and from \$75,000 to \$200,000 for an intermediate licensee. **Tennessee** HB 1006/SB 1728 requires home improvement contractors to post a license bond, which may be in the form of cash, a surety bond, a "property bond" or an irrevocable letter of credit, in the amount of \$10,000. The aggregate liability of the surety under the new law may not exceed the aggregate amount of the bond. **Washington** HB 1843 expands the scope of home service contractors that must be licensed and bonded to include installation or repair of roofing or siding, tree removal services and cabinet or similar installation.

Oregon made significant changes this year to its contractor licensing requirements in two new laws. The Oregon legislature enacted two new laws to further regulate commercial and residential contractors in the State. The bonding requirements are changed and increased in both new laws. Since 1999, the Construction Contractors Board (CCB) has issued licenses to general contractors and licensed developers, special contractors and inspectors. Under HB 2654, each of these license bonds was increased by \$5,000 as follows: general contractor and licensed developer \$15,000 to \$20,000; specialty contractor \$10,000 to \$15,000; inspector from \$5,000 to \$10,000. Under prior law, the Board could reduce the amount of any contractor's bond to \$5,000 if the contractor has less than \$40,000 in gross annual business and does not enter into a contract for more than \$5,000. Under the new law, the Board cannot reduce a bond to less than \$10,000. These increases will be applicable to applications for an initial license received by CCB on or after January 1, 2008. For renewals, these increases become effective to applications that CCB

receives on or after July 1, 2009.

Oregon HB 3242 creates new commercial and residential license categories for the existing general contractor and specialty contractor licenses. The new amounts specified for the bonds for each of the new license categories are as follows:

<i>Type of Contractor</i>	<i>Bond Amount</i>
Residential General	\$20,000
Residential Specialty	\$15,000
Residential Limited	\$10,000
Residential Developer	\$20,000
Commercial General—Level I	\$75,000
Commercial General—Level II	\$20,000
Commercial Specialty—Level I	\$50,000
Commercial Specialty—Level II	\$20,000
Commercial Developer	\$20,000

The new laws also increase the amount of general liability insurance required of contractors in Oregon. The new law under HB 3242 became effective on July 1; however, it will apply to licenses issued or renewed on or after July 1, 2008.

In related matters, **Oregon** SB 62 provides for direct actions on the license bond required under existing law for landscaping businesses.

--To Governor. **New Jersey** AB 1016 creates the State Board of Examiners of Heating, Ventilating, Air Conditioning and Refrigeration Contractors (HVACR). It also would require HVACR contractors to be licensed and secure a \$3,000 bond.

--Still Pending. **California** SB 1047 increases the bond required of the “qualifying individual” from \$7,500 to \$12,500. The qualifying individual is a specifically-defined owner or other employee who can take the examinations and otherwise qualify an individual owner, co-partnership or corporation for a contractor’s license in the State. The bond amount is consistent with the contractor’s license bond. The bill passed the Senate and is in committee in the Assembly. **Massachusetts** SB 220 would require all irrigation contractors to obtain a permit. As a condition of obtaining a permit to operate, the contractor would have to show proof of liability and workers compensation insurance, a surety bond and a letter of credit.

There is an improved possibility of achieving a state home contractor license bond in **New York**. The New York State Consumer Protection Board conducted a series of three hearings in the State to investigate the home improvement industry, which is the source of a majority of complaints the Board receives. SFAA worked with CNA Surety on this issue and presented testimony at two of the hearings in favor of a license bond to prequalify home service contractors. SFAA used the California contractor license bond requirement as an example of what another large state has done to help eliminate abuses in the home improvement industry. In response to

concerns expressed about some contractors being unable to obtain bonds, SFAA noted that the \$12,500 bond has not been problematic in California and also suggested a tiered bond amount similar to the New York motor vehicle bond. New York City may be carved out of the bill, as it has a recovery fund.

--**Carryover.** **Iowa** SB 317 would require home improvement contractors to post a \$75,000 bond, which would respond to any person damaged by the contractor's breach of contract or violation of law. **South Carolina** SB 523 would increase the license bond of residential builders to \$30,000. **Washington** SB 5005 and 5047 would require residential contractors to be licensed and bonded.

--**Dead for 2007.** **Alabama** HB 790/SB 442 would have increased the amount of the existing license bond for HVAC contractors from \$10,000 to \$15,000 and expanded the license bond requirement to refrigeration contractors. **Arizona** HB 2463 would have required handymen to be registered and bonded. No bond amount is specified. **Arkansas** HB 2467 would have required licensed and unlicensed residential building contractors to post a bond. **Idaho** HB 45 would have required all electrical, plumbing, heating and ventilating (HVAC), gas and general contractors to be licensed and post a \$10,000 license bond. The bond would have been payable to a consumer in the event the contractor failed to meet the requirements of applicable codes or rules. **Illinois** HB 359 would have created the Painting, Drywall, Finishing and Glazing Contractor Licensing Board under the Department of Financial and Professional Regulation. Such contractors would be required to file and maintain in force a surety bond in the amount of \$10,000 in connection with licensure. HB 373 would have created the General Contractor Licensing Board (Board) under the Department of Financial and Professional Regulation. Such contractors would be required to file and maintain in force a surety bond in the amount that the Board would determine by rule, in connection with licensure. **Maine** LD 121 would have required a \$10,000 license bond for home construction contractors. **Mississippi** HB 101 would have permitted the State Board of Contractors to license contractors with a contract of less than \$50,000 for a public project and less than \$100,000 for a private project. Contractors under those thresholds remain exempt from licensing and bonding under current law in the State. **New Mexico** HB 733 would have repealed the existing contractor's license bond requirement and replaced it with a new requirement. Existing law provides for small bond amounts based on the size of the projects the contractor undertakes. Under the bill, no bond amount was specified; but the bond was required to compensate only for actual damages incurred as a result of the licensee's violations of the law and not attorneys' fees, punitive damages or pain and suffering. **Oregon** HB 3393 would have required construction labor contractors to be licensed and bonded. The amount of the bond is \$10,000, if the contractor has 20 or fewer employees, and \$30,000 for 21 or more employees. HB 2077 would have required landscape contractors to be licensed and post a \$15,000 license bond.

Manufactured Homes

--**Enactments.** **Idaho** HB 100 expands the existing licensing and bonding requirements for manufactured homes to include mobile homes and also adds to the existing bonding requirements. The bond for retailers is increased from \$20,000 to \$40,000, and a new \$30,000 bond requirement is added for resale brokers. **Minnesota** HB 1208/SB 998 requires manufacturers and dealers of manufactured homes to post a \$20,000 license bond. For dealers, a separate \$20,000 bond is needed for each location. **Texas** HB 1460 increases the bond amount for installers of manufactured housing from \$10,000 to \$25,000 and from \$30,000 to \$50,000 for

a rebuilder. A retailer would need a \$50,000 bond for its principal location and \$50,000 for each branch location.

--Carryover Legislation. **Delaware** HB 198 would clarify existing law concerning licensed manufactured home installers who may submit evidence that their employer has posted the surety bond, irrevocable letter of credit or liability insurance policy required under existing law such that the employer's bond, policy or letter of credit provides coverage for the installer. The bill would provide that the employer is responsible for the acts or omissions of the licensed manufactured home installer and any individual acting under the supervision of or assisting the installer in the installation of manufactured housing. **North Carolina** SB 1159 would require installers of modular homes to obtain a \$5,000 permit bond before installing any house to assure compliance with the State Building Code. **Vermont** HB 502/SB 172 would require installers of manufactured homes to be licensed and bonded. An Installation Standards Board will set the amount of the bond.

In related carryover legislation, **Iowa** HB 421 would authorize the issuance of temporary retail sales permits from the Department of Transportation (DOT) for licensed manufacturers of motor homes. The bill would allow the DOT to adopt rules that would establish requirements for temporary retail sales permittees, which would include requiring a surety bond or other evidence of the indemnification of motor home purchasers.

--Dead. **Alabama** SB 438 would have required dealers of manufactured homes to post a \$50,000 license bond. **South Dakota** HB 1197 would have authorized the Department of Public Safety to promulgate rules to require licensed installers to have a letter of credit, certificate of deposit issued by a licensed financial institution or surety bond issued by an authorized insurer in the amount of \$10,000 for the performance of installation pursuant to the manufacturer's installation instructions.

Mortgage Brokers and Lenders

--Enactments. **California** SB 998 requires finance lenders, residential mortgage lenders and residential mortgage services to file an original surety bond, including all riders and endorsements, with the Commissioner of Corporations rather than a copy of the bond as provided under prior law. **Indiana** HB 1717 creates a new appeal process regarding final orders from the Secretary of State against those in violation of the mortgage broker and lender laws. A surety bond in the amount of \$500 is required for the appeal process. **Minnesota** SB 2096 requires residential mortgage originators and lenders to maintain a net worth of \$250,000 or to post a surety bond or a letter of credit in the amount of \$100,000 in connection with licensure. The bond must be from an insurance company licensed in the State and in a form that the Commissioner has approved. This provision of the act will become effective on March 1, 2008. **Mississippi** SB 2350 extends the application of the licensing and bonding requirements for mortgage lenders to correspondent lender companies. The bond amount is \$150,000, unless the person or entity was otherwise required before July 1 to be licensed and bonded at an amount of \$50,000. In that case, the \$150,000 bond is not required until the 2007 license renewal. **Montana** HB 69 requires residential mortgage lenders to be licensed and to post a bond in an amount to be determined by regulation. Montana SB 92 clarifies that the bond covers the mortgage broker's principal business location and each branch office. The existing law also has been amended to provide an exemption for all of the mortgage broker's employees from the bond requirement instead of only loan originators.

Rhode Island SB 104 increases the license bond for mortgage loan brokers from \$10,000 to \$20,000 and from \$25,000 to \$50,000 for mortgage lenders. **South Dakota** SB 165 repeals and re-enacts revised provisions regarding the licensure and bonding of mortgage lenders and brokers. The \$25,000 license bond remains intact. **Texas** HB 1716 permits financial services companies to act as mortgage brokers through exclusive agents and requires the company to post a \$1 million bond to cover the activities of each exclusive agent.

--*Carryover.* **Hawaii** HB 1315 would require mortgage brokers to post a \$50,000 license bond. The bond would have to be executed by a surety company, conditioned upon the faithful compliance of the licensed mortgage broker with the proposed law and the rules that would be adopted. The bond would run to the State for the benefit of any person injured by any violation by the licensed mortgage broker or any officer, director, employee, partner or member.

--*Dead.* SFAA worked with the Local Surety Association to get **Oregon** SB 965 held in committee. While not directly affecting the mortgage broker bond, the bill would have required brokers to comply with onerous new standards and to pay significant new penalties in circumstances over which they had no control. **Rhode Island** SB 104 would have increased the amount of the license bond required from mortgage brokers from \$10,000 to \$20,000 and the bond required from mortgage lenders from \$25,000 to \$50,000.

Check Cashing and Money Transmitters

--*Enactments.* **Alaska** SB 116 enacts the Uniform Money Services Act of the National Conference of Commissioners on Uniform State Law (NCCUSL). Money transmitters must be licensed and post a bond of \$25,000, plus \$5,000 per location up to an additional \$125,000. The total maximum bond would be \$150,000. **Arkansas** HB 2518 enacts the NCCUSL Uniform Money Services Act, which regulates check cashers, money transmitters and currency exchanges. The new law requires licensure and bonding for all these activities. The minimum bond is \$50,000, plus \$10,000 for each location, up to a maximum \$250,000 for each license. Prior law in Arkansas required only check cashers to obtain a \$250,000 license bond. The Department of Commerce, Community and Economic Development could increase the bond up to \$500,000, if the financial condition of the licensee required such an increase. **Delaware** SB 81 allows sellers of checks and money transmitters to post a letter of credit in lieu of a surety bond. **Georgia** SB 70 increases the \$100,000 and \$50,000 license bond amounts for sellers of checks and money transmitters. Under the new law, both sellers and transmitters are subject to an additional bond requirement in the amount of \$5,000 per location, up to \$250,000. Additional coverage may be required in the event that outstanding balances for check sellers and orders to transmit sums for money transmitters exceed \$250,000. The additional coverage can exceed the \$250,000 requirement in this case and could be required to be up to \$1,250,000, or the average daily balances or orders outstanding in Georgia for the preceding year, whichever is less. The new law provides that the total maximum amount of additional coverage would be limited to \$1,500,000 in order to account for the additional maximum of \$250,000 that could be required for multiple locations. **Mississippi** HB 362 makes the license and bonding requirements for check sellers permanent. The existing law was due to sunset on July 1. **Mississippi** HB 660 extends the repeal date in existing law for the Check Cashers Act to January 1, 2012. To be licensed as a check casher, a surety bond, certificate of deposit, government bonds or cash in the amount of \$10,000 is required under existing law.

--Still Pending. **Michigan** SB 169 would require check cashing services to post a \$5,000 license bond per location.

--Dead for 2007. **Maryland** SB 169 would have required check cashing services to be licensed and bonded. The surety bond would be \$5,000 per location. **Nevada** SB 537 would have provided a schedule for the amount of the license bond currently required of money transmitters. The new bonding schedule would have been based on the average monthly balance of funds in the transmitter's trust account.

Credit Counseling and Debt Management Services

--Enactments. **Colorado** SB 57 enacts the NCCUSL (National Conference of Commissioners on Uniform State Law) Uniform Debt Management Act. Providers of debt management services would have to be licensed and post a \$50,000 bond. Although SFAA wrote the sponsor a letter, the bill contains the requirement for an "A" rated surety licensed in the State. **Missouri** HB 329 requires debt adjusters to furnish a blanket bond in favor of the State of Missouri in the amount of \$100,000 for the benefit of any debtor who is damaged by the debt adjuster's breach of the debt management plan or the debt adjuster's failure to administer debtor funds collected and disbursed under the plan. This is not the NCCUSL uniform law.

--Still Pending. **California** AB 69 would require providers of debt management services to be licensed and to post a \$25,000 bond to guarantee faithful observance of the provisions of the law and faithful performance of the written agreement with the consumer. Debt management services are defined as receiving money from a consumer for the purpose of distributing that money among the consumer's creditors in accordance with a plan administered by the provider. The bill has some provisions that are similar to the NCCUSL Uniform Debt Management Act, but it is not the Uniform Act in its entirety. AB 69 does not contain the NCCUSL requirements for an "A" rated surety. AB 69 would require credit counselors to be licensed and to post a \$25,000 bond under the same terms and conditions as debt management service providers. AB 69 also contains provisions requiring providers of debt settlement services to be licensed. This means persons or entities that serve as an intermediary between an individual and creditors for the purpose of obtaining concessions without receiving money from the individual with the intent to distribute it to the individual's creditors. Such providers would have to be registered and provide evidence of aggregate umbrella insurance against the risk of dishonesty, fraud, theft and of misconduct on the part of employees or agent of the provider. Such insurance must be from an "A" rated insurer licensed in the State. **Wisconsin** AB 218 also would enact the Uniform Debt Management Services Act of NCCUSL. It would require a \$50,000 license bond from an "A" rated surety. SFAA wrote a letter to the bill sponsor in **Wisconsin** urging the elimination of the eligibility requirements for the surety.

SFAA also has followed up with NCCUSL about an amendment to its model legislation. NCCUSL is supposed to consider SFAA's comments and request for an amendment to the Uniform Act after the bill has been introduced in the legislatures for a two-year period.

Massachusetts HB 334 would require credit counseling and debt adjustment services to be licensed and to post a bond in the amount of \$40,000 or twice the amount of the highest total payments that the licensee received from Massachusetts debtors in connection with debt adjustment activities, whichever is greater. SB 206 is similar except that it would require a bond

of \$100,000 or the licensee's net worth. **Pennsylvania** HB 1107 would require credit counseling agencies to be licensed and bonded.

--*Carryover.* **Minnesota** SB 1532 would require debt management service providers to be licensed and post a \$50,000 bond. This bill is not the NCCUSL uniform act.

--*Dead.* **Rhode Island** HB 5014 would have enacted the NCCUSL Uniform Debt Management Services Act. It would require a \$50,000 license bond from an "A" rated surety. SFAA wrote a letter to the bill sponsor urging the elimination of the eligibility requirements for the surety.

Other Debt Collection Legislation

--*Enactments.* As originally drafted, **Rhode Island** SB 34 would have required debt collectors to be licensed and bonded. The amount of the license bond is \$15,000. In the bill that was passed by the Senate, however, the bonding provisions were removed and civil actions against debt collectors for violations of the law were substituted.

--*Carryover.* **South Carolina** SB 562 would require collection agencies to post a license bond executed by a surety company licensed in the State, and approved by the Department of Consumer Affairs (Department). The amount of the bond would have to be based on the total value of South Carolina accounts in possession of the licensee during the previous year, as follows:

Annual South Carolina Accounts	Amount of Bond
\$0 - 99,999	\$15,000
\$100,000 - \$250,000	\$30,000
\$250,001 - \$500,000	\$45,000
\$500,001 - \$1,000,000	\$60,000
More than \$1,000,000	\$150,000

The bond would be executed to the State for its use and also for consumers with a cause of action against the collection agency. In addition to remaining in full force and effect concurrently with the license in a continuous form, the bond would have to be maintained for three years after revocation, denial, or failure to renew the license. The surety would be able to terminate or cancel the bond.

The bill also would require recovery agencies to post a license bond executed by either two responsible sureties, or a surety company licensed in the State, in the penal sum of at least \$150,000, which would have to be continuous in form and remain in full force and effect concurrently with the license unless the surety terminated it. For each branch office, the license applicant would have to attach a \$10,000 rider or endorsement to his or her bond. The bond would be conditioned for the faithful performance of the duties and obligations of the business and would be for the Department's use on behalf of the State, or consumers that have a cause of action against the licensee resulting from a violation of the proposed law. A person would be required to commence an action within three years from the date on which the consumer discovered or reasonably should have discovered the facts that brought about the consumer's claim.

--Dead for 2007. **New York** AB 8153 would require debt collection agencies to be licensed and to post a bond in an amount based on the number of persons the licensee employs. The bond amount is \$10,000 for one to four employees; \$25,000 for five to nine employees; \$50,000 for 10 or more employees. The bill passed the Assembly.

Other Lender Legislation

--Still Pending. **Ohio** HB 156 would require those who give refund anticipation loans to register and to post a \$100,000 bond for each location. **Pennsylvania** SB 335 would do the same.

--Dead for 2007. As drafted, **Georgia** HB 163 would have required payday lenders to be licensed and bonded. The amount of the bond would have been \$25,000 per location with a \$250,000 maximum. The bill was substituted in committee; and the bond amount was increased to \$50,000, although the maximum cap remained the same. The bill passed out of committee but failed to be enacted. **Texas** HB 867 would have required persons who offer, service or broker deferred presentment transactions to be certified and to post a surety bond in the amount of \$1 million. The applicant also would have been required to have \$1 million in assets, calculated according to Generally Accepted Accounting Principles, in addition to the bond requirement. **West Virginia** HB 2820 would have required a \$25,000 per location bond for payday lenders, up to a maximum \$250,000.

Motor Vehicles

Several states expanded the scope of their existing motor vehicle bond to additional types of vehicles and/or licensees or enacted new bond requirements.

--Enactments. **Arkansas** HB 1462 expands the existing law by re-designating all terrain "cycles" as all terrain "vehicles" (ATVs) and subjecting owners of six-wheeled ATVs to existing registration and proof of ownership requirements. In lieu of such proof, a bond may be posted to pay for claims related to ownership disputes, which may be in the form of cash, a letter of credit, a surety bond from a state-licensed surety or fidelity company or a personal bond signed by at least two property owners in the State. The bond has a mandatory three-year period under existing law, and must be for 1.5 times the market value of the ATV. **Colorado** HB 1081 requires power sports vehicle dealers to post a \$3,000 license bond. **Colorado** SB 221 increases the amount of the motor vehicle salesperson license bond from \$5,000 to \$15,000. **Florida** HB 7205 requires recreational vehicle distributors and importers to post a license bond in the amount of \$10,000. Existing law concerning license bonds for recreational vehicle manufacturers is applicable to this license bond requirement. **Missouri** SB 82 subjects power sport vehicle and trailer dealers to an existing \$25,000 license bond. As originally drafted, the bill would have increased the motor vehicle license bond from \$25,000 to \$30,000. **Nebraska** LB 681 increases the amount of the license bond required under existing law for motor vehicle dealers, trailer dealers and motorcycle dealers from \$25,000 to \$50,000. **Nevada** SB 452 increases the license bond for motor vehicle brokers from \$50,000 to \$100,000. The new law also revises the bond amounts for all motor vehicle manufacturers, distributors, dealers and re-builders. Prior law required a \$50,000 bond. The new law requires a \$100,000 bond for most licenses, except for licensees selling only motorcycles or horse trailers, in which case the bond is increased from \$5,000 to \$50,000. Those selling utility or other special-use trailers must post a license bond of \$10,000. As originally drafted, **Oregon** HB 2438 would have reduced the motor vehicle bond from \$40,000 to \$35,000. The bill was gutted and enacted without the reduction in the bond amount. **Wyoming** SB 111 requires out-of-state recreational vehicle dealers to post cash or a

surety bond in the amount of \$50,000 from a corporate surety licensed in the State in connection with obtaining a permit to sell such vehicles.

Nevada AB 393 contains new provisions for claims against the license bond of garageman. Under the new law, the license bond must provide that anyone injured by an action of a garageman may: 1) submit a claim to the Director of the Department of Motor Vehicles (Director). The Director will decide, after a hearing, the amount that the surety will have to pay or 2) obtain a court order for payment, which must be submitted to the Director, who informs the surety that it must pay the amount. Existing law, however, still limits the aggregate liability of the surety to the penal sum of the bond.

--Still Pending. **Pennsylvania** SB 1019 would require recreational vehicle dealers to post a \$30,000 license bond.

--Dead for 2007. **Florida** SB 2488 would have required RV distributors and importers to post a \$10,000 license bond. **Missouri** HB 699 would have increased the bond for new motor vehicle franchise dealers, used motor vehicle dealers, wholesale motor vehicle dealers and boat dealers from \$25,000 to \$100,000. **Nevada** SB 263 would have required private entities that register motor vehicles to be bonded. **Oregon** HB 2393 would have required vehicle salespersons to be certified and to post a \$5,000 bond. **West Virginia** HB 2028 would have increased the bond for motor vehicle dealers from \$10,000 to \$50,000.

PUBLIC OFFICIAL BONDS

A number of bills enacted in **Florida** and **Georgia** establish a charter for a new public entity in which surety and/or fidelity bonds are required for public officials. The following bills were enacted in Florida: HB 777/SB 1622 (Polk Transit Authority), HB 995 (Holt Fire District), HB 1029/SB 3004 (North Springs Improvement District), HB 1099 (Blackman Fire District) and HB 1515 (Babcock Special Improvement District). The following bills were enacted in Georgia: HB 93 (City of Bainbridge), HB 477 (City of Richland), HB 496 (City of Arlington), HB 588 (City of Maysville), HB 696 (City of Alamo) and HB 805 (City of Buchanan).

Mississippi enacted a series of bills creating or extending tourism commissions around the state in which some of the public officials involved need to be bonded. The bills are HB 1756, HB 1765 and SB 2059. Two other bills died when the session adjourned — SB 3223 and SB 3231.

A series of bills has been introduced in **Massachusetts** that would require public official bonds for various public entities: HB 156, HB 159, SB 53, SB 146 and SB 1199.

APPEAL BONDS

Caps on appeal bonds are often presented by business groups as part of an overall tort reform package. As a result of the November elections, the overall political environment in 2007 was far less open to tort reform. As noted above, the industry shifted to a defensive position in some states as the trial bar attempted to repeal previously-enacted reforms. Yet, various coalitions continued to pursue tort reform; and, in some cases, caps on appeal bonds were pushed because such legislation is a “less controversial tort reform.”

--Enactments. **Colorado** SB 203 permits judicial review of final orders of the Division of Real Estate regarding mortgage broker licenses, and a surety bond may be required to stay an appeal. **Connecticut** SB 1439 repealed the \$150 appeal bond in probate court. **New Mexico** SB 335 caps the appeal bond at \$100 for signatories to the tobacco master settlement agreement. **Kentucky** HB 426 amends the existing \$100 million cap on appeal bonds. The new law provides that the total amount of the appeal bond required collectively of all appellants during an appeal may not exceed \$100 million in the aggregate. **West Virginia** SB 194 provides that, in cases in which the judgment is greater than \$50 million, the appeal bond shall be no more than \$50 million. In 2012, the cap on the appeal bond will be adjusted according to changes in the Consumer Price Index in the previous five years. **Wyoming** HB 196 caps appeal bonds at \$25 million regardless of the amount of the judgment. In any action, however, in which the appellants are individuals or entities with fewer than 50 employees, the appeal bond cannot exceed \$2 million.

--Carryover. **Alaska** SB 48 would cap appeals bonds at the lesser of \$5 million or 10% of all appellants' net worth. **North Carolina** HB 1604 would provide for an additional method for determining the limitation on the appeals bond required under existing law in medical malpractice suits. Currently, the law caps the bond at \$25 million. The bill would allow the bond to be capped at the lesser of either the amount of the judgment, or the amount of the appellant's medical malpractice insurance coverage applicable to the action sought against him or her. HB 1667 is similar.

--Vetoed. **Oklahoma** SB 507 would have capped the appeal bond at \$25 million and provided that the bonds for small businesses cannot exceed \$1 million. The appeal bond provisions were part of a greater tort reform package that the Governor vetoed for reasons unrelated to the appeal bond provisions.

--Dead. **Alabama** HB 695/SB 412 would have lowered the appeal bond to appeal a tax case from 200% of the amount assessed to 125%. A letter of credit or a pledge of collateral would be allowed as alternatives to the bond. **Maryland** SB 835 would have capped appeal bonds at \$100 million. **Rhode Island** SB 476 would have capped the appeal bond at \$50 million for all appellants in the tobacco master settlement agreement. The bill passed the Senate again this year.

OTHER COURT BONDS

--Enactments. **Tennessee** HB 138/SB 651 increases the amount of the notary bond from \$10,000 to \$25,000. **Mississippi** SB 2647 amends the existing law for sureties on the bond of a notary public. The sureties are required to be licensed by the Department of Insurance, and the Secretary of State has to approve the bond under the new law. The Act became effective on July 1.

--Still Pending. **California** AB 866 would repeal the special procedure by which a surety may obtain a release of its liability on a notary bond and otherwise changes the requirements for notaries.

--Dead for 2007. **Kentucky** HB 248 did not pass this year, but it sets the stage for a comprehensive new system for licensing and regulating notaries under the Secretary of State. A \$25,000 license bond would have been required.

UNIFORM TRUST CODE

--Enactments. **New Mexico** HB 182 and **North Dakota** HB 1034 enacted the Uniform Trust Code of the National Conference of Commissioners on Uniform State Law. Under the new law, a trustee would need bonding only when the court deems it necessary to protect the trust or if the court has not otherwise dispensed with the requirement. The court could set the amount of the bond and modify and terminate the bond at any time.

--Still Pending. **California** AB 1727 would designate attorney's fees and costs incurred in a successful action against a conservator or guardian for breach of his/her duties as a surcharge. As such, if these costs went unpaid, the surety would be liable.

UNIFORM PROBATE CODE

--Still Pending. **Massachusetts** HB 1633 and 1652 and SB 832 would enact the Uniform Probate Code.

TAX BONDS

New York has a series of bills pending that would require persons petitioning for a tax refund or the denial of a refund to post a bond equal to the tax due plus any penalties. Some of these bills have been enacted. AB 7849 requires a bond to challenge the real estate transfer tax in the counties of Putnam, Westchester and Rockland. SB 4692 does the same for the Town of Chatham in Columbia County, and SB 4829 provides the same for the real estate transfer tax in the Town of Fishkill in the County of Dutchess. SB 2366 requires a bond to challenge the new hotel and motel tax in Yates County. SB 4070 does the same for the city of Geneva.

Update on Recent Issues in Commercial Surety

Commercial surety legislation is widely varied among the states. The following are relatively new issues in which there was interest among the states in enacting a new bond opportunity or otherwise addressing commercial surety issues.

Green Construction

South Carolina SB 377 originally would have required an "environmental performance bond" in connection with permits to build "green buildings" that complied with the Leadership in Energy and Environmental Design (LEED) Green Building Rating System. SFAA worked with AIA to address the concerns of our members regarding the original version, and the bill was amended substantially since its introduction. It carries over to 2008.

Under the revised bill, any taxpayer could receive tax credits for constructing a commercial facility that either receives three green globes under the Green Globes Rating System of the Green Building Initiative (GBI) or the LEEDS Silver Standard from the U.S. Green Building

Council (USGBC). The taxpayer would be required to register with the GBI or USGBC prior to submitting the first application for a permit to build a green building and provide an environmental performance bond for the first building construction permit. Submitting the bond would entitle the taxpayer to a decision on its permit application within 21 days.

The revised bill provides that the bond would be returned to the taxpayer if the permitting agency had failed to make a decision on the completeness of the permit application. If the permit application were complete, the permitting agency would hold the bond until either the GBI or USGBC certified as to whether the commercial project met the required standards. If the project were certified, the permitting agency “refunds the bond” to the taxpayer. Should the project fail to be certified, the taxpayer would have to forfeit 20% of the bond to the permitting agency as consideration for the expedited permit process. The bond amount would be 3% of the total cost of the commercial project, up to a maximum of \$3 million. In lieu of the bond, the bill now allows letters of credit or cash placed in an escrow account in the name of the permitting agency. The tax credit permitted is given in equal amounts over four years, and can be taken by new owners or tenants of the building if such changes occur over the course of four years.

SFAA has worked with its Commercial Surety Advisory Committee to develop these revisions to address the Committee’s major concerns with the original bill. Under the bill as introduced, it was unclear whether the bond was intended to be in effect only during the approval process or whether the bond was intended to guarantee continued compliance with the LEEDS standards throughout the 10-year period in which the tax credits were permitted. A number of members expressed concern that a building complying with LEEDS standards when constructed could fall out of compliance if the LEEDS standards were changed. The current bill draft shortens the period in which tax credits are permitted and eliminates the prior requirements for re-certification throughout the period in which tax credits are permitted. The bill still is unclear, however, as to whether the permitting agency could proceed first against the principal to pay the forfeiture amount if the building is not certified, rather than make a claim on the bond. The bill also still contains the confusing language to the effect that any interest earned on the bond while in the hands of the permitting agency must be divided between the agency and the taxpayers. Finally, some members thought that the original bill required a financial guarantee rather than a surety bond.

There was no interest in the legislature in a new tax recapture bond when the tax credits were limited from 15 to four years under the current version of the bill.

Amendments to the Uniform Commercial Code

In its Restatement of the Law on Surety, the American Law Institute (ALI) referred to sureties as “secondary obligors” even though ALI restatements generally summarize an existing body of law rather than break new ground. This new terminology has caused states to amend their versions of the Uniform Commercial Code to contain the reference to surety as “any other secondary obligor.” These changes to the law have no substantive impact on surety. **Florida, Iowa, Indiana, Kansas and Utah** enacted such legislation this year. Pending legislation in **Pennsylvania**, HB 1152, and **Wisconsin**, AB 480, would do the same.

Boxing/ Martial Arts

--Enactments. **Hawaii** HB 1866 authorizes the Director of the Department of Commerce and Consumer Affairs to adopt rules to guarantee that the promoter meets his or her financial

obligations in connection with a mixed martial arts contest. **Idaho** HB 110 expands the existing tax bond requirements applicable to promoters of boxing and wrestling contests to all contests and competitions. The promoter must post a bond to assure payment of all taxes, fees and fines. **Louisiana** HB 348 HB 348 subjects promoters of "mixed technique events" to the bond requirements in existing law, which requires a license bond in the amount of \$5,000.

--Bills on the Move. **North Carolina** HB 1786 would increase the amount of the license bond required of promoters of boxing and kickboxing matches from \$5,000 to \$10,000. The bill also would subject promoters of mixed martial arts matches to the license bond requirement. The bill is on the Governor's desk for signature.

--Still Pending. **Michigan** HB 4869 would require promoters of mixed marital arts matches to post a \$10,000 surety bond condition on the faithful performance of the licensee under existing law and regulations.

--Dead. **Alabama** HB 27 would have created a state boxing commission and required promoters to be licensed and bonded for each match. The new commission would have set the bond amount. The bill passed the House but died in the Senate when the session adjourned. **Wyoming** HB 231 would have created a State Boxing Commissioner and a surety bond requirement in the amount of \$2,000 in connection with licensure as a boxing club or organization or obtaining a permit.

Wholesale Distributors of Prescription Drugs

--Enactments. **Illinois** SB 509 would require wholesale drug distributors to post a \$100,000 license bond. **Maryland** HB 1030 requires wholesale distributors to post a \$100,000 bond. **New Mexico** HB 314 authorizes the Board of Pharmacy (Board) to require wholesale drug distributors to post surety bonds or other equivalent means of security, such as insurance, an irrevocable letter of credit or funds deposited in a trust account or financial institution, to secure payment for any penalties owed or costs incurred. The Board will set the amount and conditions of the surety bond or other equivalent means of security through regulations. The Board may waive the surety bond if it determines that it is in the best interest of the public to do so. **South Dakota** HB 1155 requires wholesale drug distributors to post a license bond in an amount of at least \$100,000.

--Carryover. **Kansas** HB 2392 would require wholesale drug distributors to be licensed and to post a \$100,000 bond. HB 2531 would authorize the Board of Pharmacy to adopt a regulatory system.

Private Investigators

--Enacted Laws. **Indiana** SB 506 changes the private detective license law to the private investigator firm license law. The firm must post a \$7,000 license bond. **New Mexico** SB 621 requires the licensure and bonding of private investigation and private patrol companies instead of individuals. The amount of the bond is \$10,000.

--Still Pending. **Pennsylvania** HB 825 would require licensure and bonding of private investigators.

--Carryover. **Alaska** HB 158 would require a \$15,000 license bond or E&O insurance.

--Dead for 2007. **Colorado** HB 1083 is dead. It would have required a surety bond or E&O policy of \$100,000. **Wyoming** HB 231 would have required a \$2,000 license bond for any boxing club or organization obtaining a permit.

Residential Security Deposits

In the last two sessions, SFAA has seen a few bills that would allow renters to post a surety bond in lieu of a cash deposit. Such legislation was enacted in 2006 in **Maryland**, but the terms and conditions and the bond form, as specified in the new law, are onerous.

--Enactments. **Maine** HB 1160/LD 1651 permits a landlord to offer a tenant the option of posting a surety bond in lieu of some or all of a security deposit. The bill is similar to the Maryland law. The amount of the bond cannot exceed two months' rent. The surety bond premium is nonrefundable unless the landlord refuses to accept the bond after the tenant has purchased it or if the tenant does not enter into the rental agreement. The surety or the landlord must give the tenant notice of all the tenant's rights prior to the purchase of the bond. The surety bond must conspicuously disclose that the bond is not refundable and is not insurance. If the surety fails to comply with these requirements, the surety forfeits the right to make a claim against the tenant for recovery under the bond.

--Still Pending. **California** SB 482 would permit a tenant to purchase a bond or a commercial insurance policy for securing the terms and conditions of a rental agreement in lieu of posting a security deposit with the landlord.

Tax Bonds for Wine Shipments

The U.S. Supreme Court's 2005 decision in *Granholm v. Heald*, which struck down state regulatory schemes that permit in-state wineries to ship directly to consumers but restrict the ability of out-of-state wineries to do so, continues to have surety bond implications in that states are requiring license and/or tax bonds to assure that out-of-state wineries shipping wine to consumers in the state comply with the laws and pay their taxes.

--Enactments. **Oregon** HB 2677 requires any U.S. manufacturer of wine or cider to obtain a wine self-distribution permit from the Oregon Liquor Control Commission (Commission) for distributing and transporting wine or cider in Oregon. The new law subjects such permit holders to an existing surety bond requirement, which provides that a bond must be posted in the amount that the Commission determines. The bond must be issued by a corporate surety licensed in the State. Existing law provides that the bond is conditioned that all fines for any violation of any provision of the Liquor Control Act, privilege taxes, license fees, alcoholic liquor taxes and any penalties or interest on such taxes will be paid. Of note, the new law provides that the permit only would be issued to those who hold a license issued by another state that authorizes the manufacture of wine or cider; and the person must have a certificate of approval from Oregon.

West Virginia SB 712 authorizes any person or winery currently licensed and in good standing in its domicile state as a winery, mini-winery, supplier, distributor, or retailer of wine and who obtains a direct shipper's license from the Commissioner in West Virginia, as provided under existing law, to ship up to a maximum of two cases of wine per month directly to adult West Virginia residents who are 21 years old or over, for their personal use and consumption and not for resale. The new law provides that all shipments of wine into West Virginia by licensed direct shippers shall be made by a licensed and bonded shipping carrier. Existing law requires all

distributors to post a license bond in the amount of \$10,000 and all suppliers to post a license bond in the amount of \$25,000. The bond must be from a corporate surety licensed in the State and be payable to the State. The bond is conditioned on the payment of all taxes and fees and on the faithful performance of and compliance with the provisions of the law.

--Carryover. **Georgia** HB 393 would expand the licensing and bonding requirements for domestic farm wineries to all farm wineries. **Nebraska** LB 689 would establish a licensing system for limited wineries and subject such licensees to the existing requirements for liquor sales, including corporate surety bond guaranteeing the payment of all taxes on liquor sales is required under existing law in connection with licensure. The bond may not be less than \$1,000 however.

--Dead for 2007. **Florida** HB 1217/SB 126 would have authorized direct wine shipments for shippers that are licensed and bonded in an amount of \$5,000. The State could accept a bond of a lesser amount if the volume of business were such that a lesser bond amount would be acceptable. The bond cannot be less than \$1,000. **Missouri** HB 944/SB 644 would apply the existing licensing and \$1,000 bond requirement to out-of-state wineries shipping to consumers in the state.

New NAIC Model Legislation

Within the last year, the National Association of Insurance Commissioners enacted two new model laws that have bonding requirements. The Discount Medical Plan Model Act requires a \$35,000 license bond or a deposit with the Insurance Commissioner. The Viatical Settlements Model Act requires providers and brokers of such services to demonstrate \$250,000 in financial responsibility with a surety bond or a deposit of cash or securities. SFAA addressed and supported the models at the NAIC and they are now being introduced in the states.

--Enactments. **North Dakota** SB 2268 requires viatical settlement providers and brokers to be licensed and to provide evidence of financial responsibility in the format prescribed by the Commissioner. Such evidence must be in the amount of \$250,000, and may be in the form of either a surety bond executed and issued by an insurer licensed in the State, cash, certificates of deposit, securities or any combination of these. **Texas** HB 3064 requires providers of discount health care programs to be registered and to post a surety bond of at least \$50,000.

--Still Pending. **Delaware** SB 58 would require providers of discount medical plans to post a surety bond of at least \$50,000. The bill has passed the Senate and is in committee in the House. **District of Columbia** Bill 2917 would enact the Viatical Settlements Model Act. **New York** AB 8507 essentially is the Viatical Settlements Model Act, but the amount of financial responsibility has been reduced to \$100,000.

Miscellaneous New Bonds

With many states allowing special license plates, the following were new bond requirements that SFAA saw this year.

--Enactments. **Georgia** HB 457 requires applicants for design approval of a special license plate to post a surety bond in the amount of \$50,000. The bond serves to secure any moneys that the plate sponsor would collect from the applicant. **Nevada** AB 54 requires any person applying to the Department of Motor Vehicles (Department) for the design and issuance of a special license

plate to post a \$5,000 surety bond. The new law requires the Department to release the bond if the Commission on Special License Plates decides not to issue the plate or after at least 1,000 plates have been issued.

Looking Ahead to 2008

The National Conference of State Legislators (NCSL) has its annual survey underway to determine the top issues that will be addressed in the states next year. In some cases, the states will have a short session, and some devote that time to budgetary issues. If the keynote addresses at the NCSL Annual Meeting this July are an indicator of what is important to state legislators, we can expect the following issues to be addressed in 2008:

State Budgets

The huge deficits of the recent past have disappeared in virtually all state budgets. States have been conservative on spending and have experienced growth in revenues from taxes. Most states spent increases revenues on one-time projects or put the money into reserves. The NCSL reported, however, at its recent Annual Meeting, that most states are in a transition period. They have needs that will increase spending by slightly more than their revenue projections. Priorities for spending in 2008, based on reports from the 45 states that have passed their 2008 budget bills, are: salary increases for school teachers, new buildings and technology improvements for high schools and colleges, restoring Medicare provider rates and pay raises for prison personnel. The NCSL Annual Meeting was prior to the bridge collapse in Minneapolis; but, even so, many states already had cited highway and other infrastructure projects as high on their lists for new spending in 2008. The Minnesota disaster has led more states to review and inspect their infrastructure.

Immigration

At the NCSL Annual Meeting, the immigration issue was portrayed as a federal ship that had sunk and given rise to 50 state life boats in the water seeking a solution. The NCSL reported that there were over 1,200 immigration bills introduced in the states in 2007, addressing a wide variety of issues including employment, education, health care, public benefits, human trafficking and enforcement issues. Much of this legislation was delayed for potential federal action. The NCSL Executive Committee created a task force to examine both the state and federal roles in immigration issues. State legislators are concerned about future federal actions that present the states with costly unfunded mandates to implement.

Green Energy

State legislators are increasingly interested in green energy. The environmental benefits of using clean energy were the subject of panel discussions and educational sessions. It was mostly an opportunity for state legislators to network and share ideas of what is being done in the individual states to promote green energy.

2007 STATE ENACTMENTS ON COMMERCIAL SURETY

ALABAMA

All enactments in this state became effective upon enactment, unless otherwise specified in the summary of the enacted bill.

HB 664: *Miscellaneous Bond*

ENACTED: 05/09/2007

HB 664 requires provisional construction employers to post a bond in an amount not less than the average estimated annual withholding for employees and to provide a minimum bond in all cases not to be less than \$500 per employee. A “provisional employer” is one that employs more than 50 persons on a construction project and did not register with the Alabama Department of Revenue in the preceding tax year for withholding tax purposes. The act became effective on July 1.

HB 834: *Public Official*

ENACTED: 05/08/2007

HB 834 makes the probate judge in Crenshaw County responsible for the assessment and collection of ad valorem and sales taxes on motor vehicles, motor vehicle titles, and non-motorized vehicles. The probate judge now is required to post an additional bond from a surety company licensed in the State. The new law provides that the bond must be in the sum that the Examiners of Public Accounts prescribe. Further, the bond is conditioned "as other officials' bonds."

SB 412: *Supersedeas Bond*

ENACTED: 06/15/2007

SB 412 decreases the amount of the supersedeas bond a taxpayer must post from 200% to 125% of the amount of a final assessment of the Department of Revenue or judgment of an administrative law judge as a condition to appealing a tax dispute to a circuit court. The new law also now permits a letter of credit for 125% of the amount of the assessment or judgment or a pledge or collateral assignment of securities in the amount of 200% of the assessment as alternatives to the bond.

ALASKA

All enactments in this state become effective 90 days after enactment, unless otherwise specified in the summary of the enacted bill.

SB 116/HB 227: *Money Transmitters*

ENACTED: 07/16/2007

SB 116/HB 227 enacts the Uniform Money Services Act of the National Conference of Commissioners on Uniform State Law (NCCUSL). Money transmitters must be licensed and post security in the form of a bond, letter of credit or other acceptable security. The security must be in the amount of \$25,000 plus \$5,000 per location. The additional bonding per location may not exceed \$125,000, so that the maximum bond would be \$150,000. State regulators may increase the amount of the bond to \$500,000 if the financial condition of the money transmitter warrants an increase. The aggregate liability of the surety cannot exceed the bond amount. The act becomes effective on July 1, 2008.

ARIZONA

All enactments in this state will become effective on September 21, unless otherwise specified in the summary of the enacted bill.

HB 2322: *Tax Bond*

ENACTED: 05/24/2007

HB 2322 provides that failure to provide a copy of a surety bond to the Department of Commerce results in the loss of pre-approval from the Department for tax incentives for motion picture companies. The bond must be equal to the estimated total base investment amount for which the company was pre-approved, and it must be issued by an insurance company with a B+ or better rating from A.M. Best.

SB 1423: *Miscellaneous Bond*

ENACTED: 04/24/2007

SB 1423 allows the fees required for a development to be paid at a later date than the issuance of the construction permits if the development agreement provides for a security deposit, which may be a surety bond. The deferral is limited to 15 days from the issuance of the certificate of occupancy to the developer.

ARKANSAS

All enactments in this state became effective on August 1, unless otherwise specified in the summary of the enacted bill.

HB 1462: *Motor Vehicle Bonds*

ENACTED: 03/16/2007

HB 1462 expands the existing law by re-designating all terrain "cycles" as all terrain "vehicles" (ATVs) and subjecting owners of six-wheeled ATVs to existing registration and proof of ownership requirements. In lieu of such proof, a bond may be posted to pay for claims related to ownership disputes, which may be in the form of cash, a letter of credit, a surety bond from a state-licensed surety or fidelity company or a personal bond signed by at least two property owners in the State. The bond has a mandatory three-year period under existing law, and must be for 1.5 times the market value of the ATV.

HB 1753: *License Bond—Installers*

ENACTED: 04/03/2007

HB 1753 eliminates the requirement of a \$10,000 surety bond for installers and designated representatives for sewage disposal systems.

HB 2225: *License Bond—Carnival Operators*

ENACTED: 03/22/2007

HB 2225 repeals an existing \$2,500 surety bond requirement for carnival and fair licensees.

HB 2276: *Public Officials*

ENACTED: 03/19/2007

HB 2276 divides the offices of sheriff and tax collector in Cross County into two separate elected offices. Each of these officials must to post a surety bond to secure the faithful performance of their respective duties.

HB 2518: License Bond—Money Transmitters

ENACTED: 04/09/2007

HB 2518 enacts the Uniform Money Services Act, which regulates those providing services for money transmission, check cashing or currency exchange. Under the Uniform Act, the minimum bond is \$50,000 plus an additional bond in the amount of \$10,000 per location, with a limit on the bonding to a total amount of \$500,000. Provided however, the Department may increase the amount of security required to a maximum of \$1 million if the financial condition of a licensee required such an increase, such as a reduction of net worth, financial losses or other "relevant criteria." In any event, the aggregate liability on a surety bond may not exceed the principal sum of the bond. A letter of credit or other similar security acceptable to the Commissioner may be furnished in lieu of the bond. This law becomes effective on January 1, 2008.

HB 2602: Permit Bonds

ENACTED: 04/02/2007

HB 2602 subjects non-municipal domestic sewage treatment systems to the existing permitting and financial assurance requirements for other sewage systems. Financial assurance may be provided in the form of insurance, a letter of credit, a surety bond, a trust fund or an escrow account or through a combination of these financial instruments. The Department of Environmental Quality (Department) has the discretion to set the minimum amount required for each permit, which may exceed the cost estimates, which must be submitted with the permit application. Any financial instrument must be posted to the benefit of the Department and must remain in effect for the life of the permit.

HB 2691: License Bond—Service Contract Providers

ENACTED: 03/28/2007

HB 2691 requires service contract providers to post a surety bond in an amount equal to at least 5% of the gross consideration received less claims paid on the sale of all unexpired service contracts and could not be less than \$25,000. In lieu of the bond, the provider could maintain a net worth of \$100 million, either on its own or together with its parent company, provided that the parent company executes a parental guarantee in a form acceptable to the Commissioner. This law applies to services contracts executed after October 1. Current service providers can continue in business by submitting a license application form within 30 days of the Insurance Commissioner making them available.

SB 235: Public Official Bonds

ENACTED: 03/29/2007

SB 235 subjects towns to an existing requirement for hiring a private contractor to collect delinquent fines that the district court has assessed. Existing law requires the contractor to register with the Secretary of State and file a surety bond or certificate of deposit in the amount of \$50,000 with him or her. This provision was part of an omnibus bill making corrections to many sections in the law regarding public entities and courts. It becomes effective on January 1, 2012.

SB 275: License Bond—Burial Associations

ENACTED: 03/28/2007

SB 275 repeals the \$5,000 surety bond required to obtain a certificate of authority as a burial association.

CALIFORNIA—Still in Session

All enactments in this state will become effective on January 1, 2008, unless otherwise specified in the summary of the enacted bill.

SB 414: *Limited Liability Partnerships*

ENACTED: 07/17/2007

SB 414 changes the total aggregate limit of liability of an insurance policy or the amount of security required for registered limited liability partnerships and foreign limited liability partnerships that practice public accountancy or law. Existing law requires a form of security or an insurance policy for claims arising out of its practices based on the acts, errors or omissions of the partnership. The security may be in the form of bonds of insurance or surety companies. Other forms include a trust or bank escrow, cash, bank certificates of deposit, United States Treasury obligations and bank letters of credit. The bill increased the minimum total aggregate limit of liability for the insurance policy, or the amount of security for partnerships providing accountancy or legal services with five or fewer licensees, from \$500,000 to \$1 million; and any firm with more than five licensees now is required to post an additional \$100,000 per licensee but not to exceed the maximum amounts provided in existing law.

SB 998: *Bond Filing Procedure*

ENACTED: 07/20/2007

SB 998 requires finance lenders, residential mortgage lenders and residential mortgage servicers to file an original surety bond with the Commissioner of Corporations rather than a copy of the bond as provided under prior law.

COLORADO

All enactments in this state became effective upon enactment, unless otherwise specified in the summary of the enacted bill.

HB 1019: *Motor Carriers*

ENACTED: 05/10/2007

HB 1019 repeals the surety bond and insurance requirement for motor carriers exempt from regulation as a public utility. Under the new law, the Public Utility Commission is given the authority to promulgate rules concerning the insurance requirements for motor carriers and will determine the kind of and amount of insurance coverage required. The act became effective on July 1.

HB 1081: *License Bond—Motor Vehicles*

ENACTED: 06/01/2007

HB 1081 requires power sport vehicle dealers and used power sport vehicle dealers to post a license bond in the amount of \$50,000. The new law provides that the bond may in the form of a savings account, deposit or certificate of deposit or a corporate surety bond from a surety licensed in the State. The new law also provides that the aggregate liability of the surety for all transactions shall not exceed the amount of the bond, regardless of the number of claims or claimants. A corporate surety will not be required to make a payment to any person making a claim under the bond until a final determination of fraud or fraudulent representation has been

made by the Motor Vehicle Dealer Board or by a court of competent jurisdiction. The act became effective on July 1.

HB 1102: *Nursing Peer Health Assistance Program—Performance Bond*

ENACTED: 05/07/2007

HB 1102 allows competitive bidding for the provision of services to the nursing peer health assistance program, which assists licensed nurses in need of help with regard to physical, emotional, mental problems, drug or alcohol abuse that affect their ability to practice. The successful bidder will be the administering entity and will be required to post a performance bond in an amount that the Board requires, in order to secure its performance in compliance with the new law. The act will become effective on January 1, 2008.

HB 1145: *Miscellaneous Bond*

ENACTED: 04/26/2007

HB 1145 authorizes the State Board of Land Commissioners to lease any land of the State for renewable energy resources. A surety bond would be required to assure compliance with the lease terms. The act became effective 90 days from adjournment on August 4.

HB 1150: *Renewable Energy and Infrastructure Authority*

ENACTED: 05/23/2007

HB 1150 creates the Clean Energy Development Authority (Authority) to provide loans and grants for the development of electric transmission lines designed to transmit electricity from renewable energy resources. The new law allows the Authority to issue and sell revenue bonds and to make loans for the development of those lines. The new law requires the Authority to obtain a performance bond or “other similar assurance” to guarantee the completion of a project, prior to the issuance of such revenue bonds. The new law also permits the Authority to obtain a third-party guarantee of the revenue bonds so long as the third party has an investment-grade rating.

HB 1157: *Real Estate Foreclosures*

ENACTED: 06/01/2007

HB 1157 amends an existing law that provides that a surety bond may be posted in lieu of the original evidence of debt when the debt holder chooses to foreclose on real estate, which must be issued by a company authorized to issue bonds in the State. The new law provides a new definition of "corporate surety bond" as a bond issued by a person who is authorized to issue bonds in the State with the public trustee as obligee that would be conditioned against the delivery of an original evidence of debt to the damage of the public trustee. These provisions of the act will become effective on January 1, 2008.

HB 1213: *Public Officials*

ENACTED: 04/09/2007

HB 1213 amends existing law to allow the members of the Board of Directors (Board) of the Colorado Health Facilities Authority (Authority) to delegate powers and duties to an officer of the Authority. The delegated officer is required to post a surety bond in the same penal sum as the Executive and Associate Executive Directors of the Board, who are required under existing law to post a surety bond in the penal sum of \$100,000. The surety bond under existing law must be conditioned upon the faithful performance of the duties of the office or offices covered, and it must be executed by a surety licensed in the State.

Existing law also provides that the Chair of the Board “shall” obtain a blanket bond covering each member, the Executive Director, the Associate Executive Director and the employees or other officers of the Authority in lieu of the individual surety bonds described above. The law has been amended to state that the Chair “may” obtain the blanket bond in lieu of individual bonds. The act became effective 90 days from adjournment on August 4.

HB 1337: *License Bond—Commodity Handlers*

ENACTED: 05/14/2007

HB 1337 increases the maximum amount of the license bond required for commodity handlers from \$200,000 to \$1 million, which may be in the form of a surety bond or an irrevocable letter of credit under existing law. The bill did not increase the minimum amount required, which is \$10,000 under existing law. A provision was repealed, however, that allowed public warehouse operators to post a bond in the amount of at least \$25,000 but not more than \$500,000. The act became effective 90 days from adjournment on August 4.

SB 57: *Uniform Debt Management Services Act*

ENACTED: 06/01/2007

SB 57 enacts the Uniform Debt Management Services Act (Act) of the National Conference of Commissioners of Uniform State Law (NCCUSL). The Attorney General will administer the new law in Colorado, which requires a debt-management service provider (provider) to register and file a surety bond in the amount of \$50,000. The Administrator is authorized to increase or decrease the required amount of the bond based on consideration of the financial condition, business experience, history of the provider's performance of debt-management service and the risk to individuals to determine the necessary amount of the bond. The Act requires the surety issuing the bond to be "A" rated from a nationally recognized rating service and be licensed in the State. If the surety terminates the bond, another bond would have to be filed for \$50,000 or for an amount the Administrator requires. If there are claims against the bond, the provider is required to notify the Administrator and file a new or an additional bond. The bond runs to the State for its benefit and to individuals who enter into agreements with the provider. Payment is conditioned on noncompliance with the law. The bond must be effect for an additional two years after the registrant stops performing debt-management services in Colorado. The Act allows a certificate of insurance or a letter of credit to be furnished in lieu of a surety bond. These alternatives are subject to the same terms and conditions as the surety bond. The act will become effective on January 1, 2008.

SB 203: *Appeal Bond*

ENACTED: 06/01/2007

SB 203 revises existing law, and requires a license rather than registration for mortgage brokers. The new law also provides for a judicial review proceeding of the final orders of the Director of the Division of Real Estate, for which a surety bond is required to stay the execution of the order. The court will determine the amount of the bond required and the adequacy of the surety. The bond is conditioned upon the mortgage broker's faithful performance of all of his or her professional obligations and upon the prompt payment of all damages that resulted from or were caused by the delay in the order's taking effect or its enforcement, as well as payment of all required and assessed costs of the proceeding. The act will become effective on January 1, 2008.

SB 221: *License Bond*

ENACTED: 05/31/2007

SB 221 increases the amount of the license bond required under existing law for motor vehicle salespersons from \$5,000 to \$15,000. The act became effective on July 1.

CONNECTICUT

All enactments in this state will become effective on October 1, unless otherwise specified in the summary of the enacted bill.

HB 7392: Miscellaneous Bond

ENACTED: 07/11/2007

HB 7392 increases from \$450 to \$500 the amount of the surety bond that an owner can furnish to cover the costs of care for an animal impounded in a public facility after removal due to suffering cruel treatment. The bond may be posted in lieu of relinquishing ownership under existing law.

SB 74: Pharmacy Benefit Managers

ENACTED: 07/10/2007

SB 74 regulates pharmacy benefit managers, requiring them to post a surety bond in connection with registration with the Insurance Department. The bond must be in the amount of 10% of one month of claims in the State over a twelve-month average; provided, however, that the bond may not be in an amount less than \$25,000 or more than \$1 million. This requirement becomes effective on January 1, 2008.

SB 1071: Miscellaneous Bond

ENACTED: 05/22/2007

SB 1071 regulates “tuition raffles,” where the prize is payment of the tuition or part of the tuition at an educational institution for a student recipient that is designated by the winner. The Executive Director of the Division of Special Revenue may require any organization conducting a tuition raffle to post a performance bond in an amount sufficient to fully fund the special tuition raffle prize.

SB 1143: License Bonds—Mortgage Brokers

ENACTED: 06/05/2007

SB 1143 permits mortgage brokers to change the name or location of their business, provided that the broker provides notice to the Banking Commissioner and submits a bond rider or endorsement to the surety bond that reflects the name or location change. The bond is required in connection with licensure under existing law.

SB 1213: Financial Security—Provider Networks

ENACTED: 07/10/2007

SB 1213 requires provider networks for health insurance to maintain financial security in an amount not to exceed \$500,000. Existing law does not specify an amount of security, but does permit bonds to be posted as a form of such security. The new law became effective on July 1.

SB 1439: Appeal Bond

ENACTED: 06/11/2007

SB 1439 repeals the cost bond requirement for appeals in probate court. Prior law provided that security in the amount of a \$150 was required, for which a bond could have been posted.

DELAWARE

All enactments in this state became effective upon enactment, unless otherwise specified in the summary of the enacted bill.

HB 137: Pre-need Funeral Contracts

ENACTED: 05/23/2007

HB 137 requires pre-need funeral contract providers to post a surety bond or letter of credit in connection with licensure. The Commissioner will determine the amount of the bond, but it may not be for an amount less than \$50,000 nor more than \$200,000.

HB 168/SB 215: School Bond

ENACTED: 07/10/2007

HB 168/SB 215 increases the amount of the surety bond a private business or trade school is required to post from \$5,000 to \$25,000. The surety bond under existing law serves to protect the contractual rights of students.

HB 137: Pre-need Funeral Contracts

ENACTED: 05/23/2007

HB 137 requires pre-need funeral contract providers to post a surety bond or letter of credit in connection with licensure. The Commissioner will determine the amount of the bond, but it may not be for an amount less than \$50,000 nor more than \$200,000.

HB 168/SB 215: School Bond

ENACTED: 07/10/2007

HB 168/SB 215 increases the amount of the surety bond a private business or trade school is required to post from \$5,000 to \$25,000. The surety bond under existing law serves to protect the contractual rights of students.

SB 140: Public Officials

ENACTED: 07/17/2007

SB 140 re-writes the town charter for Frederica and requires both the treasurer and the town clerk to post a bond as the Town Council approves. The charter conditions the bond on the faithful performance of the duties of their respective offices.

DISTRICT OF COLUMBIA—Still in Session. No Commercial Surety Enactments to Date.

FLORIDA

All enactments in this state became effective on July 4, unless otherwise specified in the summary of the enacted bill.

HB 777: Public Officials

ENACTED: 06/27/2007

HB 777 creates the Polk County Transit Authority (Authority) and requires each director of the Authority's governing board to post a bond to the Governor for the Authority's benefit. The bond is conditioned on the director's faithful performance of the duties of his or her office. This law became effective upon the Governor's signature on June 27.

HB 995: *Public Officials*

ENACTED: 06/19/2007

HB 995 creates the Holt Fire District (District) and requires members of the District's governing board to post a \$5,000 surety bond within 30 days of taking office. The bond is conditioned on the faithful performance of his or her duties of office. This law became effective on July 1.

HB 1047: *License Bond—Gaming Operators*

ENACTED: 06/27/2007

HB 1047 amends the existing slot machine gaming operator's license bond requirement. Currently, a licensee must post a \$2 million license bond for the first year of licensure, which can be reduced by state regulators on an annual basis thereafter. The new law now requires a \$2 million bond annually. This law became effective with the Governor's signature on June 27.

HB 1099: *Public Officials*

ENACTED: 06/27/2007

HB 1099 creates the Blackman Fire District. The new law requires each member of its board of directors to post a surety bond in the amount of \$5,000 prior to assuming the duties of his or her office. This law became effective upon the Governor's signature on June 27.

HB 1381: *License Bond—Public Adjusters*

ENACTED: 06/19/2007

HB 1381 requires that public adjusters maintain the surety bond required under existing law unimpaired for the entire license period and for at least one year after the license is terminated. Current law requires a \$50,000 license bond. This law became effective upon the Governor's signature on June 27.

HB 1515: *Public Officials*

ENACTED: 06/27/2007

HB 1515 creates the Babcock Special Improvement District (District). The new law authorizes the District's Board (Board) to require its treasurer to post a bond, which must be in the amount and with the sureties that the Board determines to be satisfactory for securing the performance of his or her duties. This law became effective on July 4.

HB 7205: *Motor Vehicle Bonds*

ENACTED: 06/28/2007

HB 7205 requires recreational vehicle (RV) distributors and importers to comply with existing licensing and bond requirements applicable to RV manufacturers. A license bond in the amount of \$10,000 is required under existing law. This law will become effective on October 1.

SB 404: *License Bond—Contractors*

ENACTED: 06/27/2007

SB 404 requires the Construction Industry Licensing Board (Board) to promulgate rules for determining the financial stability of contractors subject to certification and registration, which

may include minimum requirements for net worth, cash and bonding. For Division I certificate holders, this must be no more than \$20,000; and for Division II certificate holders, this must be no more than \$10,000. Fifty percent of the financial requirements may be met by completing a 14-hour financial responsibility course approved by the Board. Division I certificate holders are general contractors, residential contractors and building contractors. Division II contractors are the following: roofers, sheet metal, air conditioning, mechanical, pool, plumbing, underground utility and excavation. This law became effective on July 1.

SB 666: License Bond—Fiscal Intermediary Services

ENACTED: 06/15/2007

SB 666 exempts fiscal intermediary services organizations from the surety bond required under existing law if they are owned, operated or controlled by a third-party administrator with a certificate of authority from the State. Such intermediaries perform fiduciary or fiscal services for health care providers. This law became effective on October 1.

SB 1472: Miscellaneous Bonds

ENACTED: 06/12/2007

SB 1472 requires property owners to provide financial assurance in the form of surety bonds, performance bonds or other financial responsibility guaranteeing the removal of geotextile containers from their property, upon failure of the containers to meet the requirements of the new law and the conditions of the required permit for such containers. Such containers are used in restoration projects for sand dunes. This bill became effective on July 1.

SB 1952: License Bond

ENACTED: 06/27/2007

SB 1952 amends the surety bond requirement for various licenses: pipeline system operator, liquefied petroleum gas dealer, liquefied petroleum gas dispenser, recreational vehicle servicer, liquefied petroleum gas dealer for industrial use, gas installer, specialty installer, manufacturer of liquefied petroleum gas appliances and equipment, re-qualifier of cylinders, or fabricator, repairer and a tester of vehicles and cargo tanks. The new law permits these licensees to provide a \$1 million policy of bodily injury liability and property damage liability insurance covering the products and operations as an option to the existing \$1 million surety bond, payable to the Governor and conditioned upon the licensee's compliance with the provisions of the law and the rules of the Department of Agriculture and Consumer Services. The bond indemnifies and holds harmless all persons from loss or damage by reason of the licensee's failure to comply. The aggregated liability of the surety may not exceed the \$1 million penal sum of the bond. This law became effective on July 1.

SB 2766: Permit Bond

ENACTED: 06/27/2007

SB 2766 increased from \$1,000 to \$10,000 the bond required for a permit to exhibit venomous and other regulated reptiles. This law became effective on July 1.

GEORGIA

All enactments in this state became effective on July 1, unless otherwise specified in the summary of the enacted bill.

HB 93: *Public Official*

ENACTED: 05/16/2007

HB 93 enacts a new city charter for the City of Bainbridge, authorizing the requirement of surety and fidelity bonds for public officials.

HB 96: *Depository Bonds*

ENACTED: 05/16/2007

HB 86 allows letters of credit from a Federal Home Loan Bank to secure state funds in a state depository. Prior law allowed only surety bonds and bank bonds for securing such deposits.

HB 457: *Special License Plates*

ENACTED: 05/16/2007

HB 457 requires applicants for design approval of a special license plate to post a surety bond in the amount of \$50,000. The bond serves to secure any moneys that the plate sponsor would collect from the applicant.

HB 477: *Public Official*

ENACTED: 05/18/2007

HB 477 adopts a new charter for the City of Richland. The charter provides that city officers and employees are required to post surety or fidelity bonds in the amount and with the terms and conditions that the city council requires. The bill became effective upon enactment.

HB 496: *Public Official*

ENACTED: 05/16/2007

HB 496 is similar to H 477, except that it would adopt a new charter for the City of Arlington.

HB 588: *Public Official*

ENACTED: 05/18/2007

HB 588 similar to HB 477, except that it is for the City of Maysville. The bill became effective upon enactment.

HB 696: *Public Official*

ENACTED: 05/18/2007

HB 696 is similar to HB 477, except that it is for the City of Alamo.

HB 805: *Public Official*

ENACTED: 05/30/2007

HB 805 enacts a new city charter for the City of Buchanan that requires the City to follow the state law regarding any public works construction projects, including requiring performance and payment bonds. The new law also authorizes the City to require officers and employees to post surety or fidelity bonds as the City Council requires. The bill became effective upon enactment.

SB 70: *Check Sellers and Money Transmitters*

ENACTED: 05/24/2007

SB 70 increases the bond amounts for sellers of checks and money transmitters. Prior law required a \$100,000 license bond from sellers of checks and a \$50,000 bond from money transmitters. Under the new law, both sellers and transmitters are subject to an additional bond requirement in the amount of \$5,000 per location, up to \$250,000. Additional coverage may be

required in the event that outstanding balances for check sellers and orders to transmit sums for money transmitters exceed \$250,000. The additional coverage is above the existing \$250,000 requirement in this case, and could be required to be up to \$1,250,000, or the average daily balances or orders outstanding in the State of Georgia for the preceding year, whichever is less. The new law provides that the total maximum amount of additional coverage would be limited to \$1,500,000 in order to account for the additional maximum of \$250,000 that could be required for multiple locations.

HAWAII

All enactments in this state become effective as specified in the summary of the enacted bill.

HB 1866: *Martial Arts*

ENACTED: 07/10/2007

HB 1866 authorizes the Director of the Department of Commerce and Consumer Affairs to adopt rules to guarantee that the promoter meets his or her financial obligations in connection with a mixed martial arts contest. The law became effective upon signature on July 1.

IDAHO

All enactments in this state will become effective on July 1, unless otherwise specified in the summary of the enacted bill.

HB 31: *Mining Remediation*

ENACTED: 03/21/2007

The new law provides that removal and remediation actions in the Bunker Hill mining and metallurgical superfund facility performed by the Department of Environmental Quality do not constitute public works. In letting contracts, however, the open bidding and other procurement laws must be followed; and the new law authorizes requiring the bonding of contractors.

HB 100: *Manufactured Homes*

ENACTED: 03/20/2007

HB 100 expands the existing licensing and bonding requirements for manufactured homes to include mobile homes and also adds to the existing bonding requirements. The bond for retailers is increased from \$20,000 to \$40,000, and a new \$30,000 bond requirement is added for resale brokers.

HB 110: *Sports Promoters*

ENACTED: 03/22/2007

HB 110 expands the existing tax bond requirements applicable to promoters of boxing and wrestling contests to all contests and competitions. The promoter must post a bond to assure payment of all taxes, fees and fines.

HB 230: *Geothermal Production and Injection Wells*

ENACTED: 03/26/2007

HB 230 enacts new law allowing the Department of Water Resources to accept trust funds, letters of credit, insurance or other security, in lieu of a surety bond, when issuing permits for

geothermal resource wells. The amount of the bond or other security also is increased from \$5,000 to \$10,000. The law became effective upon enactment.

ILLINOIS—Still in Session.

All enactments in this state become effective as specified in the summary of the enacted bill.

HB 1497: *Depository Bond*

LINE ITEM: 08/17/2007

HB 1497 creates the Illinois Urban Development Authority (Authority). The depository for the Authority is required to post a surety bond that is at least equal to the maximum sum expected to be on deposit at any time, conditioned for the safekeeping and prompt repayment of the deposits. Also, the Authority's treasurer and the sureties on his or her official bond are exempt from liability for the loss of any of the deposited funds due to the depository's bankruptcy, default, failure, or any other act. Collateral also may be assigned to the Authority so long as it would be conditioned in the same manner as existing law permits assignments of collateral to secure the deposits of any city. The new law became effective upon enactment.

NOTE: The Governor exercised his line item veto authority on HB 1497, but the veto did not apply to the bonding provisions described above.

HB 1630: *Public Official*

ENACTED: 08/16/2007

HB 1630 repealed existing law concerning recorders who make and certify abstracts of title to real estate and make tax and judgment searches. The bill repealed a law which requires a recorder to post a \$10,000 surety bond. Prior law conditioned the bond to secure the accuracy and correctness of any and all abstracts of title, which also indemnified the county for all actual losses or damages that the county may be required to pay resulting from any errors, mistakes or omissions in the abstracts of title, to any and all persons purchasing an abstract from the recorder. This repeal became effective upon enactment.

SB 267: *License Bond Exemption*

ENACTED: 08/17/2007

SB 267 exempts private bio-diesel fuel producers, who produce such fuels only for personal use, from the licensing and bond requirements of existing law. This exemption became effective upon enactment.

SB 678: *Performance Bond*

ENACTED: 06/30/2007

SB 678 enacts the Cable and Video Competition Law of 2007, providing for the eligibility of a person or entity seeking to provide cable service or video service in the State to obtain a State-issued authorization. Holders of a State-issued authorization now are required to comply with all applicable construction and technical standards and right-of-way occupancy standards set forth in a local unit of government's code of ordinances, including the use of public rights-of-way, pole attachments, permit obligations, indemnification and performance bonds, as well as penalties or liquidated damages. This law became effective upon enactment.

INDIANA

All enactments in this state became effective on July 1, unless otherwise specified in the summary of the enacted bill.

HB 1452: *License Bond—Surplus Lines Producers*

ENACTED: 05/04/2007

HB 1452 repeals the license bond required for resident surplus lines producers, which the law required in a penal sum of not less than \$20,000 from a corporate surety licensed in the State.

HB 1510: *Public Officials*

ENACTED: 05/11/2007

HB 1510 requires gaming control officers to post a surety bond in the amount of \$1,000 from a surety that the Indiana Gaming Commission has approved. Such officers are employed by the Gaming Control Division created under this bill as law enforcement officers.

HB 1555: *Uniform Securities Law—Appeal Bonds*

ENACTED: 04/09/2007

HB 1555 enacts the Uniform Securities Act and creates an appeals process for final orders of the new Securities Commissioner. Any applicant for registration as a broker-dealer, investment adviser or agent of any registered broker-dealer, investment advisor or agent whose application had been affected by the order; or any person against whom a civil penalty has been imposed may appeal the Commissioner's final order. Any person who is named a respondent from any final order also may make an appeal. Such persons are required to post a surety bond in the amount of \$500, in a form that the Commissioner approves, conditioned upon the faithful prosecution of the appeal to final judgment and the payment of all costs adjudged against the appellant.

HB 1717: *Mortgage Brokers—Appeal Bonds*

ENACTED: 05/11/2007

HB 1717 provides for an appeals process for final orders of the Secretary of State for violation of the mortgage broker and lender laws. A surety bond in the amount of \$500 is required for the appeal process, which serves to guarantee the faithful prosecution of the appeal and the payment of all costs that had been imposed on the appellant.

HB 1835: *License Bonds—Gaming Activities*

ENACTED: 05/11/2007

HB 1835 allows permit holders for race tracks to obtain a license to conduct gambling games at the race track. A "bond" must be furnished, which can be cash, a surety bond or an irrevocable letter of credit. If a surety bond is posted, it must be in a form approved the Indiana Gaming Commission (Commission) and "guaranteed by a satisfactory guarantor." The bond must be in an amount sufficient to cover the costs of the infrastructure and other facilities associated with the gambling games spent by the local community. The bond must be payable to the Commission for payment of the licensee's financial obligations to the local community, the State, and other aggrieved parties, according to the Commission's rules. The new law provides that the total and aggregate liability of the surety on the bond is limited to its face amount; and it also states that the continuous nature of the bond does not mean that the liability of the surety may accumulate for each successive approval period during which the bond is in force. HB 1835 became effective upon enactment.

SB 419: *Uniform Commercial Code*

ENACTED: 05/03/2007

SB 419 adopts the amendments to the Uniform Commercial Code (UCC) defining surety as "guarantor," as provided in the current version of the UCC, but does not adopt the part of the new UCC definition that provides that a surety also can be any "other secondary obligor."

SB 506: *License Bond—Private Detectives*

ENACTED: 05/08/2007

SB 506 repeals the surety bond requirement for private detectives, and instead regulates private investigator firms. The existing bond requirement for individuals has been repealed and firms are now required to a general liability insurance policy of at least \$100,000.

SB 524: *Indiana Finance Authority*

ENACTED: 05/04/2007

SB 524 establishes the Indiana Economic Development Corporation (Corporation) and the Agricultural Loan and Rural Development Project Guarantee Fund (Fund). As a part of the Fund, new law authorizes the Corporation to adopt rules relating to the type of collateral, payment bonds, performance bonds or other security to be provided for any loans made by a lender for construction loans. Of note, the Corporation replaces the Indiana Finance Authority (Authority). All of the Authority's existing powers and duties also will be transferred to the Corporation, in addition to new guarantee funds and programs.

IOWA

All enactments in this state became effective on July 1, unless otherwise specified in the summary of the enacted bill.

HB 897: *License Bonds—Master Electricians*

ENACTED: 05/25/2007

HB 897 creates the Electrical Examining Board (Board) and provides that licenses for electrical contractors shall be revoked or suspended for contractors who fail or refuse to provide and keep in force a public liability insurance policy and surety bond as required by the Board. This new law became effective upon enactment.

HB 908: *License Bonds—Plumbers and Mechanical Professionals*

ENACTED: 05/25/2007

HB 908 establishes the Plumbing and Mechanical Systems Examining Board (Board), requiring plumbing, HVAC, refrigeration and hydronic professionals to obtain a license. Those seeking licensure as a master also are required to post a surety bond and obtain liability insurance. The Board will determine the bond amount required by rule. A separate license is required for each profession noted above. The surety bond must be written by an entity licensed to do so in the State. The new law becomes effective on July 1, 2008.

SB 202: *Miscellaneous Bond*

ENACTED: 04/04/2007

SB 202 provides that the State Treasurer is authorized to require the claimant or owner of unclaimed or abandoned property to furnish a surety bond or other form of indemnification and

protection. The bond or security is required as a condition for payment of any claim. The surety bond must contain terms and provisions that the Treasurer finds acceptable and be issued by a corporate surety licensed in the State. If another form of security is submitted, it will be accepted if the Treasurer determines that it is acceptable and sufficient for protecting the Treasurer and the State against any loss, liability or damage that could result from the payment of the claim.

SB 502: *Public Officials*

ENACTED: 04/20/2007

SB 502 repeals the bond requirement for the Superintendent of the Division of Savings and Loans Associations and each of his or her appointed examiners. Prior law required a surety bond in the amount of \$2,000 from each of these persons to guarantee the performance of his or her duties and the proper accounting of all funds.

SB 557: *Credit Union Regulation—Public Officials*

ENACTED: 05/24/2007

SB 557 requires the new Superintendent of Credit Unions to post a surety bond in the amount of \$100,000 from a company licensed in the State. The bond serves to ensure the faithful performance of the deputy superintendent, assistants, examiners and all other employees of the Credit Union Division and for protection from any liability that may accrue in case of the loss of property of a state credit union or of a member of a state credit union or of any other person in the course of an examination, investigation or other function required or allowed by the State's laws.

SB 601: *Reclamation Bond*

LINE ITEM: 05/29/2007

SB 601 permits a utility to demonstrate financial assurance for a sanitary landfill project through a secured trust fund, cash, a surety bond, a corporate financial test, an irrevocable letter of credit or an alternative method as the Department of Natural Resources provides. The financial assurance instrument must ensure the facility's financial capability to provide a reasonable and necessary response during the lifetime of the project and for a specified period of time following closure according to any rules that the Environmental Protection Commission adopts. Of note, the new law exempts from the financial assurance requirements a sanitary landfill project owned by an electric generating facility that is used exclusively for the disposal of coal combustion residue.

NOTE: These provisions were contained in a large omnibus package on which the Governor exercised his line item veto authority, but the veto did not apply to the bonding provisions described above.

KANSAS

All enactments in this state become effective upon the Governor's approval.

SB 183: *UCC Definition of Surety*

ENACTED: 04/09/2007

In its Restatement of the Law on Surety, the American Law Institute (ALI) referred to sureties as "secondary obligors" even though ALI restatements generally summarize an existing body of

law rather than break new ground. This new terminology has caused states to amend their versions of the Uniform Commercial Code to contain the reference to surety as “any other secondary obligor.” These changes to the law have no substantive impact on surety. SB 183 revises the Uniform Commercial Code based on the American Law Institute's Restatement of the Law of Surety. The new law defines surety as including a “guarantor or other secondary obligor.”

HB 2363: *Release of Conservator's Bond*

ENACTED: 05/11/2007

HB 2363 changes the conditions for the release of the surety on a conservator's bond. Existing law permits the court to issue a final order to release the conservator's surety upon the filing of a final accounting, delivery of any remaining funds and assets of the estate to the person entitled to receive them and presenting the court with a receipt for the delivery of such funds and assets. The new law further conditions the court's issuance of the order to release the surety on the reimbursement for any medical assistance payments that were received under Kansas law, or any other similar laws of another state for or on behalf of a conservatee or a predeceased spouse of the conservatee. Such reimbursement is limited to the extent that the law allows.

SB 11/HB 2531: *License Bond—Wholesale Drug Distributors*

ENACTED: 05/10/2007

SB 11/HB 2531 authorizes the State Board of Pharmacy to adopt regulations for the registration of wholesale drug distributors, which must include the requirement of a surety bond.

SB 190: *License Bond—Underground Storage Tanks.*

ENACTED: 03/23/2007

SB 190 amends existing law concerning the licensing requirements for underground fuel storage tank contractors. The new law requires any person who manufactures an underground fuel storage tank for use in Kansas, or piping for the tank, or who installs or repairs these tanks or piping, to submit evidence of financial responsibility in an amount equal to or greater than \$1 million per occurrence, and \$2 million annual aggregate, for the costs of corrective action directly related to releases caused by improper manufacture, installation or repair of the tank or piping.

KENTUCKY

All enactments in this state became effective on June 27, unless otherwise specified in the summary of the enacted bill.

HB 94: *Methamphetamine Contamination Cleanup*

ENACTED: 03/23/2007

HB 94 enacts special procedures for the cleanup of clandestine methamphetamine production sites located on inhabitable properties. The new law provides that only contractors certified by the Environmental and Public Protection Cabinet (Cabinet) will be authorized to conduct the decontamination services for such sites. To obtain authorization, the contractor is required to register with the Cabinet and post a surety bond or obtain other financial assurance in the amount of \$500,000. A public liability insurance policy also is required in addition to financial assurance. The contractor also must certify that he or she will perform the decontamination of the site safely in accordance with existing law and according to the specifications of the new law.

HB 296: *Workers' Compensation Self-Insurance*

ENACTED: 03/23/2007

H 296 exempts public sector self-insured employers from the requirement to deposit funds, furnish an indemnity agreement or post a bond to secure the payment of liabilities if the public employer has authority to raise taxes, raise tuition, issue bonds, raise fees or fares for services provided or has other authority to generate funds for its operation. This provision in the bill specifically was declared an emergency and became effective upon enactment.

HB 426: *Appeal Bonds*

ENACTED: 04/05/2007

HB 426 amends the existing \$100 million cap on appeal bonds. The new law provides that the total amount of the appeal bonds required collectively of all appellants during an appeal may not exceed \$100 million in the aggregate.

LOUISIANA

All enactments in this state became effective on August 15.

HB 305: *Court Bond*

ENACTED: 06/08/2007

HB 305 requires civil litigants seeking a jury trial to post a costs bond or deposit cash for the compensation of the jurors. The new law establishes compensation requirements for such jurors; however, the court will fix the amount of the bond.

HB 348: *License Bond—Promoters of Mixed Technique Events*

ENACTED: 06/22/2007

HB 348 subjects promoters of "mixed technique events" to the bond requirements in existing law, which requires a license bond in the amount of \$5,000. Such promoters also are subject to increased bonding for which any additional amount required is based upon the seating capacity of the venue for the event. The schedule for the additional amounts based on seating in existing law has not changed.

HB 417: *License Bond*

ENACTED: 07/09/2007

HB 417 reduces the surety bond required of suppliers and permissive suppliers of motor fuel in connection with licensure from a minimum of \$2 million to a minimum of \$50,000. The bill also changed the amount of the surety bond required for terminal operators from a minimum of \$2 million to either a minimum of \$1 million or an amount equal to three months tax liability, whichever is greater. The new law provides that terminal operators who also are suppliers only are required to post one bond.

HB 908: *Bonding Exemption*

ENACTED: 07/11/2007

HB 908 replaces the permit requirement with a license for dredging for fill sand. Existing law requires the Louisiana Wildlife and Fisheries Commission to adopt rules to require a bond guaranteeing performance under the permit. The revised law retains this authorization as a condition of licensure for dredging, but it now permits private landowners to obtain the

exemption from the bond requirement. The new law requires the private landowner to apply for such an exemption and it must be approved by the local governing authority or the local coastal management program where the dredging activity will take place. Additionally, the private landowner must obtain the written approval of the Secretary of the Department of Natural Resources, the Secretary of the Department of Transportation and Development and the Chair of the Coastal Protection and Restoration Authority to obtain the exemption from the bond requirement.

HB 960: *Insurance Rating Commission Abolished*

ENACTED: 07/11/2007

HB 960 abolished the Insurance Rating Commission (Commission) and established the Office of Consumer Advocacy within the Department of Insurance. The bill transferred the Commission's duties to the Commissioner of Insurance. The new law provides for a file and use system for rates with a 45 day waiting period and permits the filing of loss cost multipliers.

SB 259: *Workers Compensation Self-Insurance Bond*

ENACTED: 07/10/2007

SB 259 amends the workers compensation self-insurance law, which will change the existing bond amount. Existing law requires a minimum deposit of \$100,000 or, in lieu of maintaining the deposit, a surety bond equal to that amount may be posted. The new law requires that, during the first year of the self-insurance fund, the deposit or bond must be in the amount of \$100,000; and then in the second year and in the following years the amount of the deposit or bond must be in the amount of \$250,000.

MAINE

All enactments in this state will become effective on September 21.

HB 347: *Self-Administered Health Plans*

ENACTED: 06/27/2007

HB 347 amends existing law concerning the Dirigo Health Program (Program) to create a self-administered plan for health coverage. The new law requires the Program's Board of Directors to hire an actuary for technical assistance, who will have to make recommendations on the plan, including whether or not a surety bond or other security should be required to protect against insolvency.

HB 751: *Workers Compensation Self-Insured Plan*

ENACTED: 05/08/2007

HB 751 clarifies existing law to provide that, when a surety bond or a letter of credit held as security for a workers' compensation self-insurance program is drawn, the proceeds must be held and disbursed in a manner similar to a cash deposit.

HB 1160: *Tenants' Bonds*

ENACTED: 06/20/2007

HB 1160 permits a landlord to offer a tenant the option of posting a surety bond in lieu of some or all of a security deposit. The amount of the bond cannot exceed two months' rent. The surety bond premium is nonrefundable unless the landlord refuses to accept the bond after the tenant has purchased it or if the tenant does not enter into the rental agreement. The surety or the

landlord must give the tenant notice of all the tenant's rights prior to the purchase of the bond. The surety bond must conspicuously disclose that the bond is not refundable and is not insurance. If the surety fails to comply with these requirements, the surety forfeits the right to make a claim against the tenant for recovery under the bond.

SB 134: *Tax Bond*

ENACTED: 05/22/2007

SB 134 eliminates the requirement that a personal representative of a decedent's taxable estate obtain a bond to secure payment of estate taxes if the Judge of Probate finds that any estate tax due is not secured by the State's estate tax lien upon real estate in the decedent's estate.

MARYLAND

All enactments in this state became effective on June 1.

HB 183: *Homeowners Association Act*

ENACTED: 05/17/2007

HB 183 defines consumer to include the actual or prospective buyer, purchaser, lessee, assignee or recipient of a lot in the development and "a co-obligor or a surety for a consumer." The new law provides that violations of the Homeowners Association Act that affect "consumers" shall be within the scope of the Consumer Protection Office of the Attorney General.

HB 756: *Auctioneers Bond*

ENACTED: 04/24/2007

HB 756 repeals the requirement for auctioneers to be bonded in Garrett County, where a corporate surety bond was required in connection with holding an auction.

HB 898/SB 303: *Motor Carrier Transportation Contracts—Indemnity Provisions*

ENACTED: 04/10/2007

HB 898/SB 303 provides that any provision, clause, covenant or agreement contained in, collateral to or affecting a motor carrier transportation contract, that purports to indemnify, defend or hold harmless the promisee against liability for loss or damage resulting from the negligence or intentional acts or omissions of the promisee, is against public policy and is void and unenforceable.

HB 966/SB 741: *Cemeteries*

ENACTED: 05/08/2007

HB 966/SB 741 directs the Director of Cemetery Oversight to study the issue of regulating the pre-construction sale of space in garden crypts and mausoleum crypts in the State. Among the items to be studied, the new law requires a study on the need for a preconstruction trust fund or performance bond. Based on the study, the Director is required to develop a legislative proposal for introduction no later than the 2008 Legislative Session.

HB 1030/SB 759: *Wholesale Drug Distributors*

ENACTED: 05/08/2007

HB 1030/SB 759 requires wholesale drug distributors to post a surety bond or other equivalent security in the amount of at least \$100,000 in connection with obtaining a permit. Other acceptable forms of security include an irrevocable letter of credit, a deposit into a trust account

or financial institution. The bond or security must secure payment of any fines that the State Board of Pharmacy had imposed or costs that the permit holder incurred to the State. The State is authorized to make a claim on the bond or security until two years after the expiration of the permit.

SB 174: *Environment and Mining*

INTRODUCED: 01/26/2007

ENACTED: 04/10/2007

SB 174 expands existing law concerning other types of financial institutions that provide financial assurance for certain mining operations in lieu of the performance bond from a corporate surety required under existing law. The new law provides that the financial institutions authorized to provide such assurance under existing law may either be physically located in the State or such institutions may otherwise subject themselves to the jurisdiction of the U.S. District Court for the District of Maryland. Prior law required them to be authorized to do business in the State.

MASSACUSETTS—Still in Session.

All enactments in this state will become effective 90 days after the session adjourns, unless otherwise specified in the summary of the enacted bill.

HB 2029: *Public Official*

ENACTED: 05/16/2007

HB 2029 creates the Marlborough 2010 Corporation (Corporation) for the City of Marlborough's development and redevelopment. The new law requires the treasurer of the Corporation to give a bond conditioned on the faithful performance of his or her duties. The bond must be from a surety company licensed in the Commonwealth, in a sum that the Corporation's Board of Directors will determine. The new law became effective upon enactment.

MICHIGAN—Still in Session. No Commercial Surety Enactments to Date.

MINNESOTA

All enactments in this state become effective as specified in the summary of the enacted bill.

HB 122/SB 62: *Statewide License Bond—Plumbers*

ENACTED: 05/25/2007

HB 122/SB 62 repeals the authority of a city to require plumbers to post a license bond and specifically prohibits them from doing so. The new law provides that the only license bond that may be required of a plumber is the bond required by the State. The new law provides that a city still may require a performance bond if the contract between the plumber and the city requires one. The act became effective on July 1.

HB 1063/SB 1051: *Educational Institutions*

ENACTED: 05/30/2007

HB 1063/SB 1051 contains multiple provisions on surety bond requirements. SFAA has reviewed the new law for those requirements that are new or changing. All bonding requirements in this act pertain to educational institutions. The act became effective on July 1.

--*Depository Bonds.* The new law permits the Board of Trustees for the Minnesota State Colleges and Universities to require the depository it selects to hold its funds to post a form of collateral or a corporate surety bond according to existing law concerning depository bonds.

--*Financial Security.* For private post-secondary institutions, the new law provides that the institution is required to post a surety bond if the U.S. Department of Education sends it a notice that it has fallen below the federal minimum financial standards and that the institution's continued participation in the federal Title IV program will be conditioned on the institution satisfying either the federal regulations concerning the Zone Alternative Code or the Letter of Credit Alternative (Title 34 CFR Section 668.175). The surety bond is conditioned on the faithful performance of all contracts and agreements with students and must be in a sum equal to the Letter of Credit Alternative that the U.S. Department of Education requires. In no event shall the bond be less than \$10,000, nor more than \$250,000

--*Miscellaneous Bond.* The new law also revises the existing bonding requirement in connection with maintaining student records for public and private post-secondary institutions. Prior law permitted the Minnesota Office of Higher Education (Office) to require a surety bond or a cash deposit in the amount of \$20,000 in connection with a plan for maintaining student records. The law provides that a binding agreement must be filed with the Office, otherwise a continuous surety bond must be filed in lieu of the agreement in the amount of \$20,000. Of note, the new law requires records preservation for 50 years under the binding agreement.

HB 1208/SB 998: License, Permit and Performance Bonds

ENACTED: 05/25/2007

HB 1208/SB 998 is an omnibus package that revises numerous provisions in Minnesota's construction, licensing, building, electrical and water codes. The new law revises existing license and permit bond requirements, creates new bonding opportunities and repeals others. SFAA has reviewed the package, which took several different forms during the session, but HB 1208/SB 998 was the bill that moved to the Governor's desk and was enacted. Please note each section of this summary for the effective dates.

--*Miscellaneous Bond.* The new law authorizes the Commissioner of Labor and Industry (Commissioner) to revoke permits licenses, registrations and certificates. Once revoked, no one may re-apply for any of the above items for two years from the effective date of the revocation. The new law authorizes the Commissioner to require a bond upon any re-application or "any other reasonable conditions" he or she determines necessary for the public's protection. This provision became effective on May 26, one day after enactment as provided in the bill.

--*Performance Bond.* The new law repeals a performance bond requirement for child care facilities because it was tied to a sunset provision. The prior law permitted such facilities, if housed in a church, five years after August 1, 1996, to install vertical access in the church, including elevators. Posting a performance bond allowed the child care facility to obtain an extension beyond the five-year period that the law granted. The bond served to guarantee that the vertical access would be installed by an agreed upon date. The repeal became effective

July 1.

--License Bond. Existing law requires manufactured home dealers and manufacturers to post a license bond in the amount of \$20,000. The new law provides that, in addition to the license bond, liability insurance in the amount of \$1 million also must be obtained. For dealers, the new law requires a separate license bond for each location in the amount of \$20,000. Existing law already requires a separate license for each of the dealer's locations. Similarly, existing law already requires a separate license and surety bond for those with a limited dealer's license. These provisions became effective on July 1.

--License Bond. The new law makes several revisions to existing laws concerning electrical contractors. It increases the amount of the existing license bond for such contractors from \$5,000 to \$25,000. Under the new law, the bond now is conditioned on the faithful performance of all work "contracted or performed" by the contractor instead of all work "entered upon" as stated under prior law. This provision becomes effective December 1.

--Miscellaneous Bond. The new law repeals provisions related to the continuity of the business of a contractor that is a master electrician. Under prior law, upon the death of such a contractor, the law provides that the contractor's representative is permitted to complete the work still under contract; and the Board of Electricity is permitted to require the representative to post a bond to guarantee the faithful performance and completion of the work. This repeal takes effect December 1.

--License Bond. The new law requires all inspectors to be licensed as either a master or a journeyman electrician. If under contract with the Department of Labor and Industry for electrical inspection services, the inspector must post a bond in the amount of \$1,000 to guarantee the faithful performance of his or her duties. This provision will take effect December 1.

--License and Performance Bonds. Among the revisions made to the water code, the new law repeals the authority of cities with waterworks systems to require plumbers to post bonds for the locality. The new law provides that the only bond that may be required of plumbers is the \$25,000 state license bond, as well as any performance bond required under the terms of any contract between the plumber and a city. The new law also repeals an existing law that allowed the bond required for any locality to be substituted for the license bond required by the State. The new law also subjects restricted master plumbers and restricted journeymen plumbers to the State's existing license bond requirement described above. These provisions became effective July 1.

--License Bond. The new law increases the amount of the license bond required of residential roofing contractor under existing law from \$5,000 to \$15,000. This becomes effective December 1.

HB 1409/SB 1229: License Bond

ENACTED: 05/23/2007

HB 1409 increases from \$10,000 to \$25,000 the amount required for a well contractor's license bond.

SB 2096: *License Bond—Mortgage Brokers*

ENACTED: 05/08/2007

SB 2096 requires residential mortgage originators and lenders to maintain a net worth of \$250,000 or to post a surety bond or a letter of credit in the amount of \$100,000 in connection with licensure. The bond must be from an insurance company licensed in the State and in a form that the Commissioner has approved. This provision of the act became effective on March 1.

MISSISSIPPI

All enactments in this state become effective as specified in the summary of the enacted bill.

HB 362: *Check Sellers*

ENACTED: 03/15/2007

HB 362 makes the license and bonding requirements for sellers of checks permanent by deleting the repeal date in existing law, which would have expired on July 1. The existing law requires a surety bond in the sum of \$250,000 or securities on deposit with an equivalent marketable value. The act took effect upon passage.

HB 660: *Check Cashers Act*

ENACTED: 03/27/2007

HB 660 extends the repeal date in existing law for the Check Cashers Act to January 1, 2012. To be licensed as a check casher, a surety bond, certificate of deposit, government bonds or cash in the amount of \$10,000 is required under existing law. The act became effective on July 1.

HB 1756: *Indianola County Tourism Commission*

ENACTED: 04/13/2007

HB 1756 eliminates the repeal date of Indianola County Tourism Commission, maintaining the bond requirement for commission members. Existing law requires each commission member to file a surety bond in the amount of \$25,000 to secure the performance of his or her duties. The act became effective upon passage.

HB 1765: *Hancock County Tourism Development Bureau*

ENACTED: 04/17/2007

HB 1765 extends the repeal date of Hancock Tourism Development Bureau, maintaining the bond requirement for commission members. Existing law requires each commission member to post a surety bond in the amount of \$15,000, approved by the State Attorney General, to secure the performance of his or her duties. The Act became effective upon passage.

SB 2059: *Lauderdale County*

ENACTED: 04/13/2007

SB 2059 extends the repeal date of Lauderdale County Tourism Commission, maintaining the bond requirement for Commission members. Existing law requires each Commission member to post a surety bond in the amount of \$50,000, approved by the State Attorney General, to secure the performance of his or her duties. The act became effective upon passage.

SB 2117: *Military Personnel—Professional Licensure*

ENACTED: 03/08/2007

SB 2117 provides that professional licenses issued to military personnel will not expire while the personnel are on federal active duty. Of the licensing requirements to which this new provision is applicable, a license bond is required under existing law for auctioneers, livestock auctioneers and auction galleries in the amount of \$10,000 for each license type. The act became effective upon passage.

SB 2350: *Mortgage Brokers and Lenders*

ENACTED: 04/21/2007

SB 2350 amends the \$50,000 surety bond requirement in existing law for correspondent lender companies. The bill defines mortgage lender to include correspondent lenders. As such, correspondent lenders now are required to post the \$150,000 license bond required for mortgage lenders under existing law. However, the new law also provides that any licensed company that was required to have the \$50,000 bond prior to July 1 does not have to increase its bond amount until its 2007 license renewal. The act became effective on July 1.

SB 2647: *Notaries Public*

ENACTED: 03/22/2007

SB 2647 amends the existing law for sureties on the bond of a notary public. The sureties are required to be licensed by the Department of Insurance and the Secretary of State has to approve the bond under the new law. The act became effective on July 1.

MISSOURI

All enactments in this state became effective on August 18.

HB 329: *Debt Adjusters*

ENACTED: 06/30/2007

HB 329 requires debt adjusters to furnish a blanket bond in the amount of \$100,000 for the benefit of any debtor who is damaged by the adjuster's breach of the debt management plan or the adjuster's failure to administer debtor funds collected or disbursed under the plan. Such a plan is required under the new law. Existing law provides that a debt adjuster is an intermediary between a debtor and his or her creditors for the purpose of settling, compounding or otherwise altering the terms of payment of any debts.

HB 221: *Service Contracts*

ENACTED: 07/13/2007

HB 221 revised existing law on the regulation of service contracts. The new law subjects all motor vehicle service contracts and service contracts for property to the existing law's requirements, retaining the requirement that service contract providers maintain an insurance reimbursement policy, a reserve account or post a security deposit. A surety bond is one available form of the security deposit. The bond must be for 5% 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.

HB 426: *Public Official*

ENACTED: 07/13/2007

HB 426 creates the Missouri Propane Safety Commission (Commission), which consists of a Chairman, an Executive Director and seven commissioners. The new law requires the Executive

Director to post a surety bond in the amount of \$100,000, and each commissioner to post a surety bond in the amount of \$50,000, before entering in into his or her duties. Also, the Chairman of the Commission may execute a blanket bond covering all members, the Executive Director and the employees or other officers of the Commission, in lieu of individual bonds. Each surety bond is conditioned on the faithful performance of the duties of the office or offices covered and must be executed by a surety company licensed in the State, approved by the Attorney General and filed in the Office of the Secretary of State.

SB 82: *License Bond*

ENACTED: 07/13/2007

SB 82 subjects power sport vehicle dealers and trailer dealers to the license bond requirement in existing law for other vehicle dealers. Existing law provides that the bond may be in the form of a surety bond from a surety company licensed in the State or an irrevocable letter of credit and must be in the amount of \$25,000.

MONTANA

All enactments in this state will become effective on October 1, unless otherwise specified in the summary of the enacted bill.

HB 69: *License Bond—Mortgage Brokers*

ENACTED: 05/03/2007

HB 69 requires residential mortgage lenders to post a license bond. The bond must be maintained continuously and serves to secure the recovery of expenses, fines and fees levied by the Department of Administration (Department) for losses or damages incurred by borrowers or consumers as the result of a licensee's noncompliance with the law. The surety bond, in an amount that will be determined by regulations, must be payable to the Department and issued by an insurance company licensed in the State. If either the surety or the licensee cancelled the bond, the licensee is responsible for informing the Department in writing by certified mail and must provide a new surety bond. The surety bond only may be cancelled with at least 30-days notice. The license would be suspended automatically if the licensee does not supply a new surety bond acceptable to the Department by the date of the cancellation.

HB 111: *Public Official*

ENACTED: 03/27/2007

HB 111 repeals existing law, which requires the State Treasurer to give a separate and additional bond conditioned upon the faithful performance of his or her duties in connection with the unemployment insurance administration account. The separate bond required under existing law was in addition to the State's comprehensive insurance plan for all state employees, which may include property, casualty, liability, crime, fidelity and other policies of insurance as the Department of Administration (Department) may deem reasonable. The law provides that the Department is to consult with the other departments, agencies, commissions and other instrumentalities of the State in order to provide a comprehensive insurance plan for the State in amounts determined and set by the Department.

As noted above, the State Treasurer's bond was required in connection with the handling of certain funds. The provision of state funds to this account also were eliminated, allowing only for the deposit of federal funds, which will be handled as provided under existing law.

HB 128: License Bond—Textbook Dealers

ENACTED: 03/30/2007

HB 128 amends existing law that requires textbook dealers to obtain a license and post a bond in the amount of at least \$2,000, and no more than \$10,000, in order to sell textbooks to the Superintendent of Public Instruction. The bill deleted the requirement that the Attorney General must approve the bond. Existing law does not have a requirement as to the bond's issuer.

HB 158: Seismic Exploration

ENACTED: 03/22/2007

HB 158 permits other financial instruments, including cash, certificate of deposit or other instruments acceptable to the Secretary of State, to provide indemnification for property owners when seismic activity is performed. Prior law only allowed for the use of a surety bond. The bond must be filed with the Secretary of State, in the amount of \$10,000 for a single seismic crew, or a blanket surety bond in the amount of \$25,000 for all seismic crews operating in the State. Existing law also provides that the surety bond must remain on file with the Secretary of State so long as the exploration is carried on or engaged in, plus an additional five years afterwards. Existing law limits the aggregate liability of the surety in any event to the amount of the surety bond. The bond indemnifies the owners of property within the State against physical property damages resulting from seismic exploration.

HB 460: Performance Bond

ENACTED: 04/26/2007

HB 460 requires an additional performance bond for mining reclamation in the event of an extraordinary event after a permit had been issued. The owner must provide an amended reclamation plan to address that event and post a bond in connection with that plan to guarantee its performance.

HB 583: Open-cut Mining Law

ENACTED: 05/03/2007

HB 583 revises the law concerning open-cut mining operations. Existing law requires a permit bond from a surety company licensed in the State or an alternative form of security. The bill repealed the existing method for determining the amount of the bond, which the prior law required to be equal to the costs of restoration as the Department of Environmental Quality determined, provided that it could not have been less than \$200 or more than \$1,000 per acre of land to be restored. The Department was authorized to require a larger amount if it determined that the restoration will cost more than the limits described above. Under the new law, the amount of the bond must be equal to the cost of reclamation of the affected land, and the Department will set the amount without any specifications provided in the law. The new law also prohibits the permit applicant from posting a bond in a lesser amount than what the Department requires.

Also, existing law requires the mine operator to post a new surety bond or an alternative form of security within 30 days, should the surety on the bond have its license suspended or revoked. Failure to do so results in suspension of the permit. The new law grants the operator up to an additional 60 days to submit a replacement bond if he or she "demonstrates in writing that the operator has been pursuing a replacement bond in good faith but additional time is necessary to

complete the transaction." The new law also requires that a written notice be provided of any Department decision on an application for release of the bond.

HB 724: *Service Contracts*

ENACTED: 04/06/2007

HB 724 regulates the offering of service contracts in Montana. The new law requires a financial security deposit with a value of not less than 5% of the gross consideration received, less claims paid, on the sale of the service contract for all such contracts that have been issued and are in force. The new law requires that the deposit be a minimum of \$25,000. The deposit may consist of a surety bond from an authorized surety, securities that are eligible for deposit, cash, a letter of credit or maintaining individually or through a parent company a net worth of stockholders' equity in the amount of \$100 million. The act became effective upon enactment and will be applicable to all service contracts issued on or after January 1, 2008.

SB 92: *Mortgage Brokers*

ENACTED: 05/16/2007

SB 92 amends existing law, which requires mortgage brokers to obtain a license and to post either an irrevocable letter of credit or a surety bond in the amount of \$25,000, providing coverage for each location identified in the license application. The law has been amended to clarify that the bond covers the mortgage broker's principal business location and each branch office. The existing law also has been amended to provide an exemption for all of the mortgage broker's employees from the bond requirement instead of only loan originators.

SB 108: *Workers Compensation—Self-Insurer Fund*

ENACTED: 04/03/2007

SB 108 amends existing law concerning the security deposit required from employers who self-insure for worker's compensation and participate in the self-insurers guaranty fund. Existing law provides that the security deposit may be a surety bond, government bond, certificate of deposit or a letter of credit approved by the Department of Labor and Industry (Department) and the Montana self-insurers guaranty fund. Also, under existing law, for the first three years of operating as a self-insured employer, the employer's security deposit must be in the amount of \$250,000 or an average of the workers' compensation liabilities incurred by the employer in Montana for the first three of the last four completed calendar years, whichever is greater. The new law requires that payment must be made from any security deposit within 30 days of a demand by the Department. If payment were not made within 30 days by the obligor on the security deposit, the obligor becomes liable to the Department for interest at the annual rate of 10% on the amount unpaid. The act became effective on July 1.

SB 461: *Reclamation Bond*

ENACTED: 05/03/2007

SB 461 requires the Department of Environmental Quality to release all or a portion of a bond if the Department is satisfied that reclamation of coal and uranium has been completed. The bill replaces the word "may" with "shall" in the existing law's provisions on procedures for releasing the bond.

NEBRASKA

All enactments in this state will become effective on October 1, unless otherwise specified in the

summary of the enacted bill.

LB 124: License Bond—Retail Sales Installment Contracts

ENACTED: 03/19/2007

LB 124 requires a surety bond in the amount of \$50,000 in connection with licensure as a business offering retail sales installment contracts, whereby a consumer enters into an agreement to make payments on an item that he or she has purchased. The act was given emergency status and became effective upon enactment.

LB 347: Public Officials

ENACTED: 03/19/2007

LB 347 amends existing law concerning bonds for public officials in any city, town and village. Existing law requires such officials to post an individual surety bond, conditioned for the faithful discharge of the duties of their respective offices as required. The new law allows a schedule, position, blanket bond or undertaking, or evidence of equivalent insurance, to be given by municipal officers or a single corporate surety fidelity, schedule, position or blanket bond or undertaking or evidence of insurance coverage covering all the officers, including officers required by law to furnish an individual bond or undertaking, could be furnished. The bond or insurance coverage must be at least an aggregate of the amounts required by the existing law or by the person, council or board authorized by law to set the amounts.

LB 463: Uniform Credentialing Act

ENACTED: 05/15/2007

LB 463 enacts the Uniform Credentialing Act. The new law repeals a bond requirement for cosmetology and esthetics schools. Prior law required a surety bond in the amount of \$5,000 for each 20 students or fraction thereof enrolled in either type of school. The new law also repeals a requirement for an apprentice salon to post a surety bond in the amount of \$1,000 for each apprentice enrolled. These provisions become effective on December 1, 2008.

LB 549: License Bonds—Micro-distilleries

ENACTED: 03/07/2007

LB 549 requires micro-distilleries to be licensed and post a surety bond to guarantee payment of all taxes and any penalties or interest. The Nebraska Liquor Control Commission sets the amount of the bond, which must be equal to the amount of the taxpayer's estimated maximum monthly excise tax and may not be in an amount less than \$1,000.

LB 681: License Bond—Motor Vehicle Dealers

ENACTED: 04/04/2007

LB 681 increases the amount of the license bond required under existing law for motor vehicle dealers, trailer dealers and motorcycle dealers from \$25,000 to \$50,000.

NEVADA

All enactments in this state will become effective on October 1, unless otherwise specified in the summary of the enacted bill.

AB 54: Miscellaneous Bonds

ENACTED: 06/01/2007

AB 54 requires any person applying to the Department of Motor Vehicles (Department) for the design and issuance of a special license plate to post a \$5,000 surety bond. The new law requires the Department to release the bond if the Commission on Special License Plates decides not to issue the plate or after at least 1,000 plates have been issued. This law became effective on July 1.

AB 393: *License Bond Claims*

ENACTED: 06/18/2007

AB 393 contains new provisions for claims against the license bond of garageman. Under the new law, the license bond must provide that anyone injured by an action of a garageman may: 1) submit a claim to the Director of the Department of Motor Vehicles (Director). The Director will decide, after a hearing, the amount that the surety will have to pay or 2) obtain a court order for payment, which must be submitted to the Director, who informs the surety that it must pay the amount. Existing law, however, still limits the aggregate liability of the surety to the penal sum of the bond.

AB 431: *Condominium Deposits*

ENACTED: 06/13/2007

AB 431 regulates condominium hotels and requires advance payments to be deposited in an escrow account. In lieu of escrowing such funds, the new law permits the declarant on the property to post a surety bond in an amount equal to the deposit.

AB 595: *Tax Bond*

ENACTED: 06/06/2007

AB 595 requires special fuel users to post a bond in an amount not less than \$2,500 if the user is "habitually delinquent" in excise tax payments. The bond would be conditioned on the faithful performance of the laws governing such uses, and on the punctual payment of all excise taxes, penalties and interest due to the State. In lieu of the bond, the bill would permit the user to post cash or another form of security in the required amount. This law becomes effective on January 1, 2008.

SB 46: *Court Bonds*

ENACTED: 05/22/2007

SB 46 enacts the Uniform Custodial Trust Act, which allows a beneficiary or his or her conservator, among others, to require the custodial trustee to furnish a bond or other security for the faithful performance of fiduciary duties or for other appropriate relief.

SB 274: *Performance Bond*

ENACTED: 06/13/2007

SB 274 authorizes the State Engineer to seek injunctive relief in certain circumstances and authorizes the court to require a performance bond to secure the performance of its order for such cases. This law became effective on July 1.

SB 452: *License Bond—Motor Vehicles*

ENACTED: 06/14/2007

SB 452 increases the amount of the license bond required for motor vehicle brokers from \$50,000 to \$100,000. The new law permits brokers providing services for more than one category of vehicle, at a principal place of business or at any branch location within the same

county, to provide a bond for a single category of vehicle. The broker may consider that single bond to include all other categories of vehicles. The bill also permits those injured by the broker to apply to the Director of the Department of Motor Vehicles (Director) for payment or to obtain a court order. The surety must pay what either the Director or the court decides, provided however, that the aggregate liability of the surety is limited to the penal sum of the bond.

The new law also revises the license bond requirements for all motor vehicle manufacturers, distributors, dealers and re-builders as follows: licensees selling only motorcycles must post a \$50,000 bond; licensees selling vehicles other than motorcycles, trailers or travel trailers must post a \$100,000 bond; licensees selling travel trailers or other dual purpose trailers, including living quarters must post a \$100,000 bond; licensees selling horse trailers designed without living quarters or special purpose trailers with an unladen weight of 3,501 pounds or more must post a \$50,000 bond and licensees selling utility trailers or other special use trailers with an unladen weight of 3,500 pounds or less or trailers designed to carry boats must post a \$10,000 bond.

The new law also repeals a provision in the prior law that allowed all such businesses to obtain a reduction in the amount of the bond required if they had been in business for more than five years. These provisions become effective on January 1, 2008.

SB 476: *License Bond—Exchange Facilitators*

ENACTED: 06/14/2007

SB 476 re-designates intermediaries as exchange facilitators and requires a fidelity bond in an amount not less than \$1 million from an insurer licensed in the State and approved by the Division of Financial Institutions of the Department. Under prior law, intermediaries were required to post a surety bond and the Real Estate Division of the Department of Business and Industry set the amount. This law became effective on July 1.

SB 487: *Public Officials*

ENACTED: 06/14/2007

SB 487 creates the Northern Nevada Water Authority (Authority) and requires each member of the Authority's Board to post a corporate surety bond not to exceed \$5,000, conditioned for the faithful performance of his or her duties as a member of the Board. This law becomes effective on April 1, 2008.

NEW HAMPSHIRE

All enactments in this state become effective as specified in the summary of the enacted bill.

HB 256: *Public Officials*

ENACTED: 06/28/2007

HB 256 amends existing bonding requirements for town public officials and employees. The new law provides that bonded officials and employees that the treasurer delegates to certain treasury functions must be covered under the town's blanket bond policy. This law became effective on August 27.

HB 536: *Registration Bond*

ENACTED: 07/03/2007

HB 536 requires martial arts schools to register and post a surety bond or other financial instruments in the amount of \$50,000 in order to operate. This law became effective on July 1.

HB 895: *License Bond—Court Reporters*

ENACTED: 07/13/2007

HB 895 regulates court reporters by establishing a system of licensure and certification. Prior law required that the Chief Justice of the Superior Court to certify them. The new law requires court reporters to post a license bond in the amount of \$1,000 from a bonding company licensed in the State with one or more sureties, which the Attorney General must approve. The bond is conditioned that the court reporter does not violate any of the duties, terms, conditions, provisions or requirements of the new law. The new law also permits any aggrieved person to maintain an action on the bond directly. This law became effective on July 1.

HB 903: *Financial Assurance—Home Heating Oil Dealers*

ENACTED: 07/18/2007

HB 903 prohibits dealers from entering into a prepaid contract to provide home heating oil, kerosene or liquefied petroleum gas to a consumer unless the dealer either: enters into a futures contract for 75% of the maximum number of gallons that the dealer is committed to deliver; posts a surety bond in the amount of 50% of the total amount of the funds that consumers will pay the dealer pursuant to a prepaid contract; or obtains a letter of credit for 100% of the cost to the dealer of the maximum number of gallons that the dealer is committed to deliver. This new law becomes effective on September 1.

SB 105: *Charitable Trusts*

ENACTED: 06/11/2007

SB 105 repeals the bond requirement for the fund raising counsel of a charitable trust. Prior law required a bond in the amount of \$10,000 from a surety company licensed in the State in connection with registration. This new law became effective 60 days after its passage on August 11.

NEW JERSEY—Still in Session

All enactments in this state will become on the following July 4, unless otherwise specified in the summary of the enacted bill.

AB 4336: *Public Official*

ENACTED: 08/06/2007

AB 4336 establishes the New Jersey Schools Development Authority and requires each of its members to post a bond conditioned on the faithful performance of their duties.

NEW MEXICO

All enactments in this state became effective on June 17, unless otherwise specified in the summary of the enacted bill.

HB 182: *Uniform Trust Code*

ENACTED: 04/02/2007

HB 182 amends the State's adoption of the Uniform Trust Code to provide that a regulated financial service institution qualified to do trust business in the State does not need to furnish a bond, even if required by the terms of the trust. This act became effective on July 1.

HB 269: *Sustainable Development Testing Site Act*

ENACTED: 03/15/2007

HB 269 enacts the Sustainable Development Testing Site Act. In obtaining a permit for a sustainable development testing site, the new law requires the applicant to provide a cash bond, an irrevocable letter of credit or “any other surety,” including insurance, which is satisfactory to a county planning commission, in the amount of \$100,000, to secure payment for damage caused by the sustainable development testing site. This act became effective on July 1.

HB 314: *Wholesaler Drug Distributors*

ENACTED: 03/29/2007

HB 314 authorizes the Board of Pharmacy (Board) to require wholesale drug distributors to post surety bonds or other equivalent means of security, such as insurance, an irrevocable letter of credit or funds deposited in a trust account or financial institution, to secure payment for any penalties owed or costs incurred. The Board will set the amount and conditions of the surety bond or other equivalent means of security through regulations. The Board may waive the surety bond if it determines that it is in the best interest of the public to do so.

HB 340: *Land Grants*

ENACTED: 04/02/2007

HB 430 creates the Board of Trustees of the Chilili Land Grant Merced (Board). The new law requires the treasurer of the Board to furnish a surety bond conditioned on the public officials' handling public money. The treasurer is responsible for depositing all of the Land Grant Merced's money in a bank that is organized and doing business in New Mexico. The amount of the treasurer's bond must be at all times for a sum of at least double the amount received by and deposited in the bank by the treasurer. This act became effective on July 1.

HB 664: *Horse Racing Act*

ENACTED: 03/15/2007

HB 664 requires the New Mexico Horse Breeders' Association (Association) to create a fund to pay horse breeders of New Mexico bred horses merit and incentive awards. The Association is required under the new law to file a fiduciary bond with the State Racing Commission in a face amount equal to the total money distributed during the previous calendar year for such payments. The bond has to be executed by a surety company licensed in New Mexico, and may not be in an amount less than \$2 million. These provisions of the act became effective on July 1.

HB 827: *Surface Owner Protection Act*

ENACTED: 03/08/2007

HB 827 enacts the Surface Owner Protection Act, relating to certain oil and gas well operators. The new law requires a surface use agreement between the well operator and surface owner, specifying the rights of the surface owner and the obligations of the operator with respect to an oil or gas operation. A surety bond, letter of credit, cash or a certificate of deposit in the amount of \$10,000 per well location may be posted in lieu of such an agreement. The security only can be released if the surface owner provides notice that compensation for damages has been paid, the surface owner and the operator have executed a surface use and compensation agreement or

both have agreed that the security should be released, there has been a final resolution of the judicial appeal in any action for damages and any awarded damages have been paid or all wells have been plugged and abandoned and the operator has not conducted oil and gas operations on the surface owner's property for a period of six years.

Blanket surety bonds, letters of credit from a banking institution, cash or a certificate of deposit with a New Mexico surety company or financial institution in the sum of \$25,000 also may be posted. The security in this case must be held for the benefit of the surface owners of the State and must ensure that it is in a form readily payable to a surface owner awarded damages in an action brought under the new law, and must remain in full force and effect as long as the operator continues oil and gas operations in New Mexico. The security is prohibited from being released until six years after the operator has deposited a certified statement from the Oil Conservation Division (Division) of the Energy, Minerals and Natural Resources Department with the surety company or financial institution that the operator is not the operator of record of any well in New Mexico and does not hold any outstanding drilling permits there according to the Division's records. In the event that all or a portion of the blanket bond or security has been used to pay a surface owner for a judgment, the operator immediately must post additional security so that the total amount posted equals \$25,000. If the operator does not post the additional security, the surety or financial institution is required to publish notice to that effect in a paper of general circulation in each county of the State in which oil or gas is produced. This act became effective on July 1.

HB 939: Eastern Sandoval County Flood Control District

ENACTED: 03/30/2007

HB 939 creates the Eastern Sandoval County Arroyo Flood Control Authority and requires each of the new Authority's directors to secure performance of his or her duties by posting a bond in the amount of \$10,000. The new law also provides that a surety bond may be provided in the case of the loss or destruction of securities issued by the Authority in lieu of proof of ownership or proof of loss or destruction of the securities. The new law became effective upon enactment.

HB 1155: Election and Voting Procedures

ENACTED: 04/02/2007

HB 1155 amends prior law, which required an applicant for a recount to deposit \$50 in cash or a surety bond for each precinct for which a recount is demanded and \$10 for each voting machine that is to be rechecked. The new law provides that, instead of requiring \$50 per precinct and \$10 per machine, the Board will determine the estimated actual cost of a recount per precinct and a recheck per voting machine no later than March 15 of even numbered years. Cash or a surety bond still must be deposited to cover such costs. The new law became effective upon enactment as the whole bill was declared an emergency.

SB 335: Appeal Bond

ENACTED: 04/03/2007

SB 335 caps the appeal bonds at \$100 million for the bonds required of signatories of the tobacco master settlement agreement.

SB 345: Gasoline Tax and Special Fuel Excise Tax

ENACTED: 03/30/2007

SB 345 requires taxpayers with a commercial domicile that is not located in an International Fuel Tax Agreement jurisdiction, which are subject to either the Weight Distance Tax Act or the Special Fuels Supplier Tax Act, to file a bond, cash or other securities. If a bond is filed it must be on a form that the Attorney General has approved and be from a surety company that the Public Regulation Commission has authorized as surety in New Mexico. The bond is conditioned to secure payment of all taxes levied with any penalties or interest due and the prompt filing of true reports. The Taxation and Revenue Department fixes the total amount required, which must be equivalent to the total estimated tax due for two quarters; provided however, that it cannot be less than \$500 per motor vehicle on which the tax is imposed.

The surety may cancel the bond with 90 days notice, but the surety is not discharged of any prior accrued liabilities or any that accrue during this 90 day period, unless a new bond is filed. If a new bond is filed, then the previous bond may be cancelled on the effective date of the new bond.

SB 483: *Rate Filings*

ENACTED: 04/06/2007

SB 483 changes the rate and form filing laws entirely within the State. The bill repealed prior law which required prior approval of all rates with a 60 day deemer. The new law provides for rate filings based on the competitiveness of the market. The new law defines competitive and non-competitive markets, but also provides for reverse competitive markets and residual markets. Competitive markets are presumed to exist unless the Superintendent of Insurance (Superintendent) determines otherwise. In a reverse competitive market, the new law provides that this is where the rates are determined primarily or exclusively by parties other than the policyholders.

In a competitive market, rate filings are not required for commercial insurance rates from individual insurers, other than workers' compensation and professional medical liability insurance policies. Large commercial risks are excluded from the rate and form filing requirements, which would consist of the class of large commercial policyholders that the Superintendent has the authority to determine. The new law became effective on July 1, 2007.

SB 621: *Private Investigators*

ENACTED: 03/30/2007

SB 621 amends existing law which requires a surety bond or certificate of deposit in the amount of \$2,000 in connection with licensure as a private investigator or private patrol operator. Instead of requiring an individual investigator to post a bond or a certificate of deposit, the new law requires a surety bond from a private investigation company in the amount of \$10,000, as well as a commercial general liability certificate of insurance, but a specification for the amount of insurance coverage required has not been given.

Similarly, the bill would have required private patrol companies to post a bond or a certificate of deposit in the amount of \$10,000. The bill was substituted and such companies only are required to obtain a general liability certificate of insurance in an amount required by the Regulation and Licensing Department (Department). Individual patrol operators no longer are required to furnish a bond or a certificate of deposit under the new law.

A transition to the proposed licensing and bonding requirements is provided, allowing private investigators and private patrol operators that have a certificate of deposit or surety bond under existing law to be exempt from the bond provisions described above, so long as the license remains current and its holder is in good standing with the Department. This act became effective on July 1.

NEW YORK—Still in Session

All enactments in this state become effective as specified in the summary of the enacted bill.

Multiple Bills: Tax Bonds for Tax Review Proceedings

A number of bills were enacted to require a bond in connection with review processes for tax assessments made by local authorities. Anyone who disputes the tax or seeks a refund is required to deposit an amount equal to the tax and any penalties due, along with a surety bond from a state-licensed surety for the costs of the proceeding. The petitioner has the option of posting a bond in the amount of the amount of the taxes, including interest and penalties, in addition to the costs bond. Anyone disputing a denied refund claim is subject to the same bond requirements described above.

--Local Real Estate Transfer Taxes. AB 7849 (Putnam, Westchester and Rockland counties, as well as any village for which a petition is made to the legislature—effective January 1, 2008); SB 4692 (Town of Chatham—effective upon enactment) and SB 4829 (Town of Fishkill—effective upon enactment).

--Local Hotel and Motel Taxes. SB 2366 (Yates County—effective September 15) and SB 4070 (City of Geneva—effective September 1).

NORTH CAROLINA

All enactments in this state become effective upon enactment, or as specified in the summary of the enacted bill.

HB 36: Financial Assurance—Hazardous Waste Facilities

ENACTED: 06/26/2007

In order to obtain a permit for a hazardous waste facility, HB 36 requires that financial assurance must be provided for the closure and post closure care of the facility, as well as any corrective actions. The financial assurance may be in the form of insurance, financial tests, third-party guarantees by persons who can pass the financial test, guarantees by corporate parents who can pass the financial test, irrevocable letters of credit, trusts, surety bonds, or any other financial device, or any combination of the foregoing.

NORTH DAKOTA

All enactments in this state became effective on August 1, or 90 days after being filed with the Secretary of State if filed after August 1, unless otherwise specified in the summary of the enacted bill.

HB 1034: Uniform Trust Code

ENACTED: 03/13/2007

HB 1034 enacts the Uniform Trust Code. The new law provides that a trustee is required to give a bond only when the court deems it necessary to protect the interests of the trust, and the court has not dispensed with the requirement. The law also grants the court the authority to set the amount of the bond, its liabilities and whether sureties are necessary. The court also is able to modify or terminate the bond at any time. A regulated financial service institution qualified to do trust business in the State is not be required to give a bond, even if the terms of the trust required one.

HB 1128: *Pipeline Authority*

ENACTED: 04/10/2007

HB 1128 creates the North Dakota Pipeline Authority (Authority) under the North Dakota Industrial Commission. The new law authorizes the Authority to be a purchaser of last resort for any pipeline systems within or without the State. The new law requires the Authority to seek out persons willing to construct the facilities or provide any necessary services who are able to provide a bond, as well as a plan for the completion of the facilities or for the commencement of any necessary services. If no one were to submit an adequate bond or plan as the Authority requires, the Authority is able to proceed with contracting for the construction of pipeline facilities. The act became effective upon enactment as it was declared an emergency measure.

HB 1131: *Board of Water Well Contractors and Geothermal Systems*

ENACTED: 03/02/2007

HB 1131 requires applicants seeking to become a certified geothermal system installer to pass an exam and meet certain education requirements. Qualified applicants are subjected to an existing bond requirement for water well, monitoring well or pump and pitless installation contracts. Existing law requires the applicant to execute and deposit a surety bond in the amount of \$2,000 with the State Board of Water Well Contractors, conditioned for the faithful performance of the installation contract.

HB 1278: *Construction Project Risk Protection*

STATUS: 04/17/2007

HB 1278 amends existing law on long-term construction projects that are to be completed or discontinued within a period of seven years. The new law makes the provisions in the existing law applicable to contracts in excess of \$50 million. Existing law requires a surety bond or letter of credit to ensure the payment of all claims for benefits to be provided to employees who worked on the project. The new law excludes design and engineering firms from the bonding requirement.

Changes also have been made in the methods by which the amount of the bond is determined. Instead of the total difference between the estimated benefits paid and estimated contributions, the new law requires the contractor to post a bond for 60% of this calculated amount. The new law revises the formula to calculate the estimated contributions expected and the estimation of benefits paid. Under the new law, the general contractor or the owner remain liable for amount of benefits paid to the employees working on the project exceeding the amount of contributions collected from the employers who worked on the project not covered by the amount of the bond.

HB 1317: *Wind Turbine Electric Generators*

ENACTED: 04/27/2007

HB 1317 regulates wind energy facilities and provides for two bonds. The Public Service Commission (Commission) is authorized to require the owner of a commercial wind energy facility to file a bond or other assurance, conditioned upon the full compliance with the new law, and the rules and orders of the Commission. The Commission determines the amount and may accept under any of its own terms and conditions, a surety bond, collateral bond, self-bond, escrow account or any alternative form of security or other financial assurance or a combination of these.

The Commission also may require a performance bond to provide for decommissioning and the removal of the facility. This performance bond also may be in the form of a surety bond, collateral bond, self-bond, cash or any alternative form of security or other financial assurance, which will be prescribed by rule. The Commission is directed to consider the following when adopting rules for the bond requirements and when determining the amount of any required bond: 1) the anticipated life of the project; 2) the estimated decommissioning costs in current dollars; 3) the method and schedule for updating the costs of decommissioning and restoration; 4) the method of ensuring that funds will be available for decommissioning and restoration and 5) the anticipated manner in which the project will be decommissioned and restored.

HB 1465: *Motor Powered Recreational Vehicles*

ENACTED: 04/11/2007

HB 1465 requires off-highway vehicle dealers and snowmobile dealers to be licensed and to post a bond in the amount of \$10,000, executed by a surety licensed in the State.

HB 1511: *Idle Oil and Gas Wells*

ENACTED: 03/28/2007

HB 1511 requires a single well bond for any oil or gas well that has not been reclaimed within six months, immediately returned to production or granted temporarily abandoned status. If the well remains abandoned after one year without meeting one of the conditions described above, the property of the well and its equipment, as well as any bond covering the well, are subject to forfeiture.

SB 2036: *Professional Employer Organization Registration*

ENACTED: 04/13/2007

SB 2036 enacts a new law regulating Professional Employer Organizations (PEO). The bill would require a PEO to maintain a minimum working capital of \$100,000 and submit a financial statement to the Secretary of State (Secretary) with the license application and each annual renewal. A PEO also could post a bond with a minimum value of \$100,000. The bond would be held by the Secretary for securing the payment of any tax, wage, benefit or other entitlement due to or with respect to a covered employee if the PEO does not make the payment when due. The bill also would provide 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.” These provisions are based on model legislation that has been introduced and enacted in other states in the past few sessions. The act becomes effective on October 1.

SB 2268: *Viatical Settlement Contracts*

ENACTED: 04/09/2007

SB 2268 requires viatical settlement providers and brokers to be licensed and to provide evidence of financial responsibility in the format prescribed by the Commissioner. Such evidence must be in the amount of \$250,000, and may be in the form of either a surety bond executed and issued by an insurer licensed in the State, cash, certificates of deposit, securities or any combination of these. Any surety bond would have to be in the favor of the State and authorize recovery by the Commission on behalf of any person in the State who sustained damages as the result of erroneous acts, failure to act, conviction of fraud or conviction of unfair practices by the viatical settlement provider or viatical settlement broker.

SB 2296: *Rate and Form Filings*

ENACTED: 05/03/2007

SB 2296 creates a distinction between competitive and non-competitive markets for insurance rate and form filings. For surety and fidelity, a competitive market is presumed to exist. The bill eliminated a prior law, which provided that special filings for surety and guaranty bonds that are required by law, by court, or by an executive order or order of a public body become effective when filed. Insurers providing a competitive market commercial risk product are now under a use and file system and are given 30 days to file a notice of the rate change with the Commissioner of Insurance under the new law.

OHIO—Still in Session. No Commercial Surety Enactments to Date.

OKLAHOMA

All enactments in this state become effective on November 1.

HB 1580: *License Bond*

ENACTED: 06/04/2007

HB 1580 authorizes the Board of Health to create a system of licensing for home health care entities providing companion and sitter services. Bonding is one of the minimum requirements that the Board can require.

HB 1795: *License Bond*

ENACTED: 04/24/2007

HB 1795 increases the license bond required for rangers from \$2,500 to \$500,000. Rangers are special officers enforcing the law concerning larceny of domestic animals, livestock or farm and ranch equipment and supplies.

HB 1796: *License Bond*

ENACTED: 04/18/2007

HB 1796 limits the licensing and bonding requirements in existing law to swine and swine feeding operations instead of all animal and animal feeding operations.

SB 558: *License Bond*

ENACTED: 04/18/2007

SB 558 expands the conditions under which the license bond or cash deposit can be waived for hunting license dealers. The new law allows a waiver for dealers selling licenses via the Internet.

SB 809: *Public Official*

ENACTED: 06/04/2007

SB 809 requires each state officer or employee of the Oklahoma Employment Security Committee to post a bond in the amount of \$150,000.

HB 1886/SB 507: *Appeal Bonds*

VETOED: 04/28/2007

The Governor vetoed HB 1886/SB 507, a comprehensive tort reform package in which appeal bonds were capped at \$25 million but not in excess of \$1 million for small businesses.

ORGEON

All enactments in this state will become effective on January 1, 2008, unless otherwise specified in the summary of the enacted bill.

HB 2438: *Vehicle Dealers*

ENACTED: 06/13/2007

HB 2438 would have reduced the amount of the surety bond or letter of credit required of vehicle dealers from \$40,000 to \$35,000. The bill was substituted; and, as enacted, it does not contain this provision.

HB 2654 and HB 3242: *License Bonds*

ENACTED: 07/27/2007

The Oregon legislature enacted two new laws to further regulate commercial and residential contractors in the State. The bonding requirements are changed and increased in both new laws.

Since 1999, the Construction Contractors Board (CCB) has issued licenses to general contractors and licensed developers, specialty contractors and inspectors. Under HB 2654, each of these license bonds was increased by \$5,000 as follows: general contractor and licensed developer \$15,000 to \$20,000; specialty contractor \$10,000 to \$15,000 and inspector from \$5,000 to \$10,000. Under prior law, the Board could reduce the amount of any contractor's bond to \$5,000 if the contractor has less than \$40,000 in gross annual business and does not enter into a contract for more than \$5,000. Under the new law, the Board cannot reduce a bond to less than \$10,000. These increases will be applicable to applications for an initial license received by CCB on or after January 1, 2008. For renewals, these increases become effective to applications that CCB receives on or after July 1, 2009.

HB 3242 creates new commercial and residential license categories for the existing general contractor and specialty contractor licenses. The new amounts specified for the bonds for each of the new license categories are as follows:

<i>Type of Contractor</i>	<i>Bond Amount</i>
Residential General	\$20,000
Residential Specialty	\$15,000

Residential Limited	\$10,000
Residential Developer	\$20,000
Commercial General—Level I	\$75,000
Commercial General—Level II	\$20,000
Commercial Specialty—Level I	\$50,000
Commercial Specialty—Level II	\$20,000
Commercial Developer	\$20,000

The new laws also increase the amount of general liability insurance required of contractors in Oregon. The new law under HB 3242 became effective on July 1; however, it will apply to licenses issued or renewed on or after July 1, 2008.

HB 2486: *Liquor Control Commission*

ENACTED: 06/26/2007

HB 2486 permits the waiver of the surety bond required from licensees for a brewery, winery, wholesale, warehouse, grower sales privilege or brewery-public house. The existing surety bond is conditioned on the licensee’s payment of all license fees, privilege taxes and other taxes on alcohol. The new law permits the Oregon Liquor Control Commission to waive the bond if the licensee was not liable for the privilege tax in the immediately preceding calendar year and does not expect to be liable for a privilege tax in the current calendar year or the winery was established during the current calendar year and the licensee does not expect to be liable for a privilege tax in the current calendar year.

HB 2677: *Wine Self Distribution Permits*

ENACTED: 06/27/2007

HB 2677 requires any U.S. manufacturer of wine or cider to obtain a wine self-distribution permit from the Oregon Liquor Control Commission (Commission) for distributing and transporting wine or cider in Oregon. The new law subjects such permit holders to an existing surety bond requirement, which provides that a bond must be posted in the amount that the Commission determines. The bond must be issued by a corporate surety licensed in the State. Existing law provides that the bond is conditioned that all fines for any violation of any provision of the Liquor Control Act, privilege taxes, license fees, alcoholic liquor taxes and any penalties or interest on such taxes will be paid. Of note, the new law provides that the permit only would be issued to those who hold a license issued by another state that authorizes the manufacture of wine or cider; and the person must have a certificate of approval from Oregon.

HB 3188: *Performance Bond*

ENACTED: 06/27/2007

HB 3188 authorizes the State Department of Geology to adopt regulations requiring performance bonds or other security for oil and gas wells to ensure compliance with existing laws and any adopted regulations. The new law became effective upon enactment.

HB 5036: *Recapture Bond*

ENACTED: 07/03/2007

HB 5036 requires the Director of the Economic and Community Development Department ("Director" and "Department" respectively) to enter into one or more grant agreements with the primary sponsor of the of the Coos Bay Channel Project (project) that the Department disburse an aggregate principal amount of \$60 million throughout the course of the project for payment of its expenses through revenue bonds. The Oregon International Port of Coos Bay will serve as the primary sponsor on the project (sponsor) and will receive the proceeds from these revenue bonds.

The new law provides that the grant agreement must provide that the sponsor will return the revenue bond proceeds and reimburse the State for the project's expenditures if the Director determines that the project was not substantially completed by July 1, 2019. The new law requires the sponsor to furnish evidence that it has obtained a letter of credit, entered into a surety bond agreement or provided a similar form of security that serves to guarantee the return of the proceeds and reimbursement as a condition of the grant.

The new law also provides conditions under which the return of the proceeds and reimbursement will not be required. The conditions are as follows: if the project was not substantially completed due to an act of God; because the State failed to distribute the revenue bond proceeds required to substantially complete the project for a reason other than a failure of the primary sponsor to take action to trigger the distribution; due to a failure of the project to meet federal or state environmental permitting standards necessary to complete the project. The new law became effective on July 1.

SB 62: *License Bond*

ENACTED: 05/25/2007

SB 62 provides for direct actions on the license bond required under existing law for landscaping businesses.

SB 322: *Miscellaneous Bond*

ENACTED: 05/25/2007

SB 322 provides that the bond or letter of credit that the law permits a sheriff to require from a judgment creditor prior to levying on personal property must be for double the value of the property against which the judgment is levied. The bond or letter of credit serves to indemnify the sheriff against any loss to him or her resulting from levying on or selling the property.

SB 492: *Promoter's Bonds*

ENACTED: 06/25/2007

SB 492 subjects promoters for mixed martial arts events to the license bond requirements of existing law for boxing and wrestling promoters. Existing law requires a surety bond from a surety company licensed in the State, in an amount the Superintendent of State Police deems acceptable. The release of the bond is conditioned on the promoter making all required payments to the State or its political subdivisions, for the purses of the competitors, for costs for any cancelled event and compensation for inspectors, referees, timekeepers, judges and event medical personnel. The new law became effective upon enactment.

SB 875: *Wave Energy Facilities*

ENACTED: 06/25/2007

SB 875, as drafted, would have required posting a 100% bond in order to obtain a permit to operate a wave energy facility, for the removal of the facility and restoration of the site. Such facilities use wave currents in rivers and oceans to generate electricity through turbines from kinetic energy, similar to wind turbines.

The new law instead authorizes the Director of the Department of State Lands to adopt rules concerning such facilities and financial assurance. The new law does provide that a surety bond may be posted as a form of financial assurance for wave energy facilities or devices. Such assurance would have to provide for the costs of closure and post-closure maintenance of the facility or device, excluding the removal of anchors that lie beneath submerged lands in Oregon's territorial sea. Other acceptable forms of financial assurance include insurance, a trust fund, a letter of credit or qualifying as a self-insurer. The new law will take effect on September 29, 91 days after the legislature adjourned sine die.

PENNSYLVANIA— Still in Session. No Commercial Surety Enactments to Date.

RHODE ISLAND

All enactments in this state become effective as specified in the summary of the enacted bill.

HB 5037/SB 243: *Financial Assurance*

ENACTED: 06/27/2007

HB 5037/SB 243 provides for the phasing out of cesspools to be replaced with sewer systems. Cesspools found to be located within areas that the new law has identified as the highest risk shall cease to be used for sewage disposal and shall be properly abandoned according to the new law. The new law also provides that this would not apply if any cesspool was located on a property that is properly designated to be sewerred no later than five years after the applicable deadlines that the new law sets, provided that the municipality holds "bonding authorization" or some "other dedicated financial surety" for expansion of sewers to the area of a building served by the cesspool. The act will become effective on June 1, 2008.

HB 5305: *Permit Bonds*

ENACTED: 07/07/2007

HB 5305 authorizes the Coastal Resources Management Council (Council) to issue beach vehicle registration permits. The new law allows the Council to appoint persons operating sporting goods stores to act as agents of the Council in issuing such permits. Such persons would be required to post a surety bond, issued by a company licensed in the State. The new law provides that the requirements and conditions of the bond will be established by regulations. The bill became law without the Governor's signature and became effective upon enactment.

SB 104: *License Bond—Mortgage Brokers*

ENACTED: 01/24/2007

SB 104 increases the amount of the license bond required for mortgage loan brokers from \$10,000 to \$20,000 and from \$25,000 to \$50,000 for mortgage lenders. The bill become law without the Governor's signature and became effective upon enactment.

SB 145/HB 5753: *Tax Bond*

ENACTED: 07/03/2007

SB 145/HB 57530 repeals the tax bond requirement for cigarette dealers. Prior law required cigarette dealers and distributors who affix the required tax stamps by a metering machine to either prepay the taxes or post a surety bond in an amount that the Tax Administrator determines. Distributors still would be subject to these provisions. The bill became law without the Governor's signature and will become effective on October 1.

SB 666/HB 6282: *Public Officials*

ENACTED: 06/28/2007

SB 666/HB 6282 enacts a new charter for the Dunn's Corners Fire District (District) and requires both the treasurer and the tax collector of the Operating Committee (Committee) for the District to post a corporate surety bond in the amount and form that would be satisfactory the Committee. The bill became law without the Governor's signature and became effective upon enactment.

SOUTH CAROLINA—No Commercial Surety Bills Enacted in 2007.

SOUTH DAKOTA

All new enactments in this state became effective on July 1.

HB 1155: *Wholesale Drug Distributors*

ENACTED: 03/16/2007

HB 1155 requires wholesale drug distributors to post a license bond in an amount of at least \$100,000. A letter of credit, deposit in a trust account or financial institution may be furnished in lieu of the bond. The bond serves to secure payment of any fines or penalties, as well as any fees and costs, incurred by the Board of Pharmacy (Board). The Board may make a claim against the bond or security until one year after the licensee's license ceases to be valid.

HB 1180: *Countersignatures*

ENACTED: 02/28/2007

HB 1180 repeals the countersignature law.

SB 42: *Cigarette Distributors*

ENACTED: 03/06/2007

SB 42 now requires the bond that licensed cigarette distributors must post to assure payment of the tax upon cigarettes to be in full force and effect for a period of one year and a day after the expiration of the bond, unless a Secretary issues a certificate to the effect that all taxes due to the State have been paid. It also provides that, in lieu of the bond, the distributor is able to enter into a depository agreement with the Secretary for the deposit of money or any other property to secure payment of the tax.

SB 165: *Mortgage Lenders and Brokers*

ENACTED: 03/07/2007

SB 165 requires mortgage brokers to post a license bond in the amount of \$25,000 from a surety company licensed in the State. The bond must be in favor of the State for its use and any person who has a cause of action under the new law against the broker. The bond is conditioned on the broker's faithful performance under the new law and any rules adopted pursuant to it and on the payment of any amounts that are due to the State or another person during the time that the bond is in force. The bond may be continuous in form, and the aggregate liability of the surety may

not exceed the amount of the bond, irrespective of the period that it is in force. The surety may cancel the bond upon 30-days notice to the licensee and the Director of the Division of Banking of the Department of Revenue and Regulation. Upon the effective date of any suspension or revocation of the license, the surety's liability on the bond terminates.

TENNESSEE

All enactments in this state will become effective 40 days after the Governor signs the bill, or as specified in the summary of the enacted bill.

HB 1006/SB 1728: *License Bonds and Performance and Payment Bonds*

ENACTED: 06/19/2007

HB 1006/SB 1728 requires home improvement contractors to post a license bond, which may be in the form of cash, a surety bond, a "property bond" or an irrevocable letter of credit in the amount of \$10,000. The aggregate liability of the surety under the new law may not exceed the amount of the bond.

The new law also prohibits any deposit being paid to the contractor in excess of 1/3 of the contract price prior to the contract's execution. A deposit in excess of this amount may be made if the contract allows the contractor to furnish a performance and payment bond, lien and completion bond or a bond equivalent covering full performance and completion of the contract. The amount of the bond or its equivalent cannot be less than 1% of the labor portion of the net sales of the contractor's business, which must be determined on an annual basis, beginning on January 1.

In lieu of the performance and payment bond, the owner may elect to make final payment to the contractor for the project before completion for his or her convenience; or the parties may agree on a schedule of payments to be made before, during and after completion of the project; provided however, the contractor must advise the owner in writing of his or her right to withhold up to 100% of payment until the project is completed. The act became effective on July 1.

HB 1063/SB 1192: *Performance and Maintenance Bonds*

ENACTED: 05/24/2007

HB 1063/SB 1192 creates the Regional Water and Wastewater Treatment Authority (Authority). The new law directs the Authority to adopt regulations concerning performance bonds and maintenance bonds for such facilities. The act became effective upon enactment.

HB 2369/SB 2347: *Public Officials*

ENACTED: 04/27/2007

HB 2369/SB 2347 re-writes the town charter for Cumberland Gap. The charter requires the Town Recorder to post a surety bond to the Board of Mayor and Alderman (Board) for the faithful discharge of the duties of his or her office. The Board sets the amount of the bond required. The charter also grants the Board the authority to require a bond of any other town employee that it chooses and has the authority to fix its amount.

TEXAS

All enactments in this state become effective as specified in the summary of the enacted bill.

HB 1386: *Decommissioning Costs for Nuclear Power Facilities*

ENACTED: 06/15/2007

HB 1386 requires financial guarantees, including surety, insurance and other forms, to satisfy the federal Nuclear Regulatory Commission's standards for decommissioning commercial electronic generation units. The act becomes effective on September 1.

HB 1460: *License Bond— Manufactured Homes*

ENACTED: 06/15/2007

HB 1460 increases the amount of the license bond required for manufactured home professionals, which may be a surety bond from a company licensed in the State or another form of security. The new law requires the security to be maintained in or by a federally-insured financial institution instead of a "banking institution," as provided under prior law. The new law increases the amount required of a retailer from \$50,000 for the retailer to \$50,000 for the retailer's principal location plus an additional \$50,000 for each additional branch location. The bond required for rebuilders is increased from \$30,000 to \$50,000, and an installer's license bond is increased from \$10,000 to \$25,000. The new law also provides that, if the Department of Housing and Community Affairs (Department) is unable to obtain timely reimbursements from a surety or it is determined that a surety experienced a deterioration in its financial condition, the Manufactured Housing Board may direct the Executive Director of the Manufactured Housing Division of the Department to discontinue the acceptance of bonds issued by that surety. The act becomes effective on January 1, 2008.

HB 1530: *School Bonds—Real Estate Education Programs*

ENACTED: 06/15/2007

HB 1530 increases from \$10,000 to \$20,000 the surety bond required of educational institutions that offer a real estate or real estate inspection educational program under existing law. The existing law does not apply to an accredited college or university. The act becomes effective on September 1.

HB 1709: *Guardians and Other Personal Representative Bonds*

ENACTED: 06/15/2007

HB 1709 amends existing law concerning the bonds required as a guardian or personal representative to authorize the probate judge to enter an order requiring a new bond when the existing bond is insufficient or if it or any record of it has been lost or destroyed. The prior law only authorized the judge to order the guardian or conservator to provide justification as to why a bond is not required. The act becomes effective on September 1.

HB 1716: *Registration Bond—Financial Services Company*

ENACTED: 05/25/2007

HB 1716 allows a registered financial services company to act as a mortgage broker through individuals who are the exclusive agents of the company. The registered company must provide a surety bond in the amount of \$1 million. The bond serves to cover the registered company's responsibility for the mortgage broker activities of each exclusive agent. The act becomes effective on September 1.

HB 1956: *Underground Storage Tank Financial Responsibility*

ENACTED: 05/23/2007

HB 1956 provides that a petroleum underground storage facility may be shut down for failure to meet financial assurance requirements. Existing law permits the Texas Commission on Environmental Quality to adopt regulations to implement the existing law. The rules already provide that a surety bond may be submitted as a form of financial assurance for such facilities. The act becomes effective on September 1.

HB 2138: *License Bond—Property Tax Lenders*

ENACTED: 06/15/2007

HB 2138 requires property tax lenders to be licensed and to post a \$50,000 license bond from a surety company licensed in the State. The new law additionally requires a bond in the amount of \$10,000 for each additional license required for each business location. The act becomes effective on September 1.

HB 2833: *Court Bonds*

HB 2833 exempts private security service providers from furnishing a bond in an injunctive action against them. The act becomes effective on September 1.

HB 2967: *Public Officials*

ENACTED: 06/15/2007

HB 2967 requires probate court judges to post a performance bond in the amount of \$500,000 to secure the faithful performance of their duties. The new law also allows a county to purchase insurance with the same amount in coverage to insure against the judge's negligence in performing his or her duties. The act becomes effective on October 1.

HB 3064: *License Bond—Discount Health Plans*

ENACTED: 06/15/2007

HB 3064 requires discount health care plan program operators to register and to post a bond in the amount of at least \$50,000. Licensed insurers are exempted from posting such a bond under the new law. The act becomes effective on September 1.

HB 3166: *Public Officials*

ENACTED: 06/15/2007

HB 3166 eliminates the governing body of the Brazos River Harbor Navigation District of Brazoria County, whose commissioners were required to post a surety bond in the amount of \$10,000 under prior law. The act becomes effective on effect April 1, 2009.

HB 3220: *Lien Bond*

ENACTED: 06/15/2007

HB 3220 provides for the remediation of property on which a dry cleaning facility or a dry cleaner's drop station is or was located. The new law requires such facilities to register and pay certain fees towards a fund providing for such remediation. If the fees were not paid and the facility is subject to an ongoing corrective action, a lien may be filed on the real property. The new law permits the property owner to post a surety bond to indemnify against the lien. The bond must be for double the amount of the lien, be issued by a corporate surety licensed in the State and be conditioned on payment of the amount of the lien claimed, plus costs, if the claim was proved to be a lien on the property. The act became effective upon enactment.

HB 3838: *Plugging Bond*

ENACTED: 06/15/2007

HB 3838 subjects monitoring wells and production wells to existing law for uranium injection wells, which requires a performance bond or other security to ensure that an abandoned well is properly plugged. The act becomes effective on September 1.

HB 4085: *Public Official*

ENACTED: 06/15/2007

HB 4085 creates the Triple Creek Municipal Management District (District) and requires each member of the District's board of directors to post a bond in the amount of \$10,000 to secure the performance of his or her duties. The act became effective upon enactment.

SB 831: *Performance and Payment Bond on Energy Savings Contracts*

ENACTED: 06/16/2007

SB 831 subjects providers of water usage measures to the requirements in existing law for guaranteed energy savings contracts, which currently apply to energy and water conservation measures. A performance and payment bond is required for the installation of the measures under existing law. Separate bonds covering the value of the guarantee also may be required under existing law. The act became effective upon enactment.

SB 1269: *Public Official*

ENACTED: 06/15/2007

SB 1269 limits the surety's liability in a civil action for neglect against an officer of the State, who must post a bond in connection with his or her office under existing law. The new law provides that the surety only may be liable for the penal sum of the bond, less any amounts that already have been paid under the bond, and in no event may the surety be liable for more than the penal sum. The new law also provides the surety and the officer the ability to provide a defense to the extent that it mitigates the cause of the neglect. The surety also is permitted to make a deposit with the State in the amount unpaid under the bond in a case where both the surety and the officer are defendants. The act becomes effective on September 1.

UTAH

All enactments in this state became effective on April 28, unless otherwise specified in the summary of the enacted bill.

HB 29: *Professional Employer Organizations*

ENACTED: 03/12/2007

HB 29 would amend existing law, which regulates professional employer organizations (PEOs). Existing law 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." The bill would amend this provision to clarify that it is subject to the provisions of existing law. The existing law provides that unless a professional employer agreement expressly provides otherwise, a client of the PEO is solely responsible for directing, supervising, training, and

controlling the work of the covered employees with respect to the business activities of the client, and the solely responsible for the acts, errors, or omissions of the covered employees with regard to those activities.

HB 37: *Cigarette and Tobacco Tax and Licensing*

ENACTED: 02/14/2007

Existing law provides that when any taxable articles are allowed to remain unstamped in the hands of the wholesaler or distributor, the State Tax Commission may require the wholesaler or distributor to provide a surety bond from a surety company licensed in Utah. The bond is conditioned to secure the payment of all taxes and penalties.

HB 37 applies this law specifically to cigarettes and deletes the requirement that the taxable articles have to be in the hands of the wholesaler or distributor. The bill also replaces the words manufacturer, wholesaler or distributor with “person” in order to require any person holding the unstamped cigarettes to secure the surety bond.

The bill takes effect upon approval by the governor or the day following the time limit, without the governor's signature. In the case of a veto, it takes effect the date of veto override.

HB 40: *Fuel Tax Bonding Requirements*

ENACTED: 03/13/2007

HB 40 permits the State Tax Commission to determine when to require a tax bond to ensure payment of taxes when issuing a license to collect motor fuel or special fuel tax in order. Under the bill, licensees must post a bond if there is a delinquency in paying the taxes or if the license previously was revoked for any such delinquency. The Commission is given the authority to determine whether a new licensee that has never posted a bond needs to be bonded to assure compliance and may increase the amount of the bond from a licensee that has posted a bond.

SB 54: *Motor Vehicle Dealer Performance Bond—Claims*

ENACTED: 03/14/2007

SB 54 amends existing law concerning the surety bond required for motor vehicle dealers, special equipment dealers, crushers and body shops. The new law requires a six-month waiting period before a surety or principal could make a payment on a surety bond to any claimant, starting from the date when the first claim on the bond is filed in writing with the surety or principal. After the six-month waiting period, the surety or principal is required to assess the validity of all claims on the bond and submit a distribution plan for the bond proceeds to the claimants for approval. If the total of the verifiable claims is less than the bond amount, claimant is entitled to the full amount of a valid claim. The proceeds are distributed pro rata if the total of the verifiable claims exceeded the bond amount.

If the distribution is not approved by all valid claimants, the new law provides that the surety or the principal must file an interpleader. The surety or principal may be awarded up to \$2,500 for attorneys' fees for the interpleader proceeding. Any successful claimant on the bond may be awarded attorneys' fees against the surety or principal if the bond has not been depleted under existing law.

SB 71: *Public Officials*

ENACTED: 03/14/2007

SB 71 repeals a requirement that fidelity bonds for county officials be recorded in addition to being filed. The prior law required that the bond be recorded in the Office of the County Recorder. The bond now only needs to be filed with the county clerk as provided in existing law.

SB 91: *Uniform Commercial Code*

ENACTED: 03/14/2007

SB 91 adopts the Uniform Commercial Code (UCC) of the National Conference of Commissioners on Uniform State Law. The UCC defines surety as including a “guarantor or other secondary obligor.” This is a conforming change to recognize new terminology in the American Law Institute’s Restatement of Surety.

SB 205: *Alcoholic Beverage Control*

ENACTED: 03/14/2007

SB 205 repeals the requirement that the Director of the Department of Alcoholic Beverage Control post a bond to secure the faithful performance of his or her duties. The law required a bond in an amount that the Division of Finance determines, which also had to be in a form that the Attorney General has approved. The bill took effect on April 30.

HB 277: *Liens*

STATUS: 03/16/2007

HB 277 amends the conditions under which a lien may be filed. Existing law allows 180 days from the date of completion on the project to file the lien. The new law provides that the lien may not be filed in this case unless there has been a failure to file a notice of completion. If a notice of completion has been filed, 90 days is allowed for filing the lien.

VERMONT—No Commercial Surety Enactments in 2007.

VIRGINIA

All enactments in this state became effective on July 1, unless otherwise specified in the summary of the enacted bill.

HB 1850: *Condominium Act*

ENACTED: 03/19/2007

The new law permits a surety bond or irrevocable letter of credit to be used in lieu of an escrow account for holding deposits in the sale of condominium units. Existing law requires that any deposit made in regard to any disposition of a unit of a condominium must be held in escrow until delivered at settlement. The bond or letter of credit may be used for any condominium consisting of more than 50 units and must be maintained until 1) the deed to the unit is granted; 2) the purchaser's default under a purchase contract for the unit, which would entitle the owner to retain the deposit, or 3) the refund of the deposit to the purchaser, whichever occurs first.

The bond must be from a surety licensed in the Commonwealth and must be payable to the Commonwealth for the use and benefit of every person that is protected under the provisions of the Condominium Act, which must be filed with the Real Estate Board. It could be either in the form of an individual bond for each deposit or in the form of a blanket bond if the total amount

of the deposits exceeds \$10,000. Based on the amount of the deposits, blanket bonds must be in the following amounts:

—If the deposits total \$75,000 or less, then the amount of the bond would have to be \$75,000;

—If the deposits total \$75,000 but less than \$200,000, then \$200,000;

—If the deposits total \$200,000 or more but less than \$500,000, then \$500,000;

—If the deposits total \$500,000 or more but less than \$1,000,000, then \$1,000,000; and

—If the deposits total \$1,000,000 or more, then the blanket bond would have to be 100 percent of the amount of the deposits.

HB 2073: *District Court Appeal Bonds*

ENACTED: 03/19/2007

The new law gives an appellant 30 days to cure a defect, irregularity or omission in an appeal bond when it is required. This includes failure to post a bond when the district court erroneously failed to require the bond. Failure to comply with an order to cure has the same legal effect as if no appeal bond had ever been posted.

HB 2425: *Right to Remove Case to Circuit Court*

ENACTED: 04/04/2007

The new law requires that an appeal bond be posted within 30 days of the date of the original judgment and provides that no indigent person can be required to post an appeal bond, except in cases concerning trespass, ejectment or any action involving the recovery of rents.

HB 2616 and HB 2617: *Aircraft Financial Responsibility*

ENACTED: 03/09/2007

HB 2617 permits either cash or letters of credit for \$250,000 to be deposited with the State in lieu of a surety bond for bodily injury and property damage liability insurance policies to show proof of financial responsibility to obtain a license to operate an aircraft. Existing law requires the surety bond be conditioned upon payment in amounts and under the same circumstances as liability insurance. H 2616 exempts private-use airports required to be licensed because they are within five miles of a public-use airport from providing financial assurance.

HB 2786: *Retail Franchising Act*

ENACTED: 03/20/2007

H 2786 permits the State Corporation Commission to require escrow of the franchise fees as a condition of registration as a franchise. Existing law gives the Commission the option of requiring a surety bond at registration.

HB 2788: *Civil Judgment Appeal Security*

ENACTED: 03/08/2007

HB 2788 amends existing law which requires cash or a check of the court to secure an appeal bond. The new law allows a surety bond, or bank check or a draft from the escrow account of the appealing party's attorney for securing an appeal bond.

HB 3011: *Developer Bonds*

ENACTED: 03/15/2007

H 3011 allows developers to furnish to the governing body the certified check, cash escrow, bond or letter of credit required under existing law for facilities that will be dedicated for public use when the construction plans for each section of the development are submitted. The security provided must be in the amount of the estimated cost of construction.

WASHINGTON

All enactments in this state became effective on July 22, unless otherwise specified in the summary of the enacted bill.

HB 1843/SB 5735: *Suits against Contractors*

ENACTED: 05/11/2007

HB 1843 allows any person, firm or corporation having a claim against the contractor to bring suit against the contractor. Existing law provides that a suit may be brought only against the bond. Existing law requires that action on the bond or deposit must be commenced within two years from the date the claimed contract work was substantially completed or abandoned if the action is brought by a residential homeowner, and one year if filed by any other authorized party for breach of contract by a party to the construction contract. The new law provides that an action could be brought from the date that the claimed work was completed, and requires the action to be initiated from the date of whichever of these three items occurred first.

HB 1533/SB 5715: *Insurance Providers License Bond*

ENACTED: 04/18/2007

HB 1533/SB 5715 designates insurance brokers as insurance producers and changes how the amount of their license bond is calculated. The new law requires a surety bond from all producers who place insurance directly or indirectly with an insurer with which the producer is not an agent. The bond must be in the amount of \$2,500, or 5% of the premiums brokered in the previous calendar year, whichever would be greater; provided, however, the bond may not exceed \$100,000 in total aggregate liability. Also, the new law allows an option of placing the bond in favor of a "named insured such that the people of the state of Washington are covered by the bond," in lieu of the "people of the state of Washington," as provided under existing law.

The new law also allows a producer to obtain a bond in the name of an association, so long as it has been in existence for more than five years, has a common membership and was formed for a purpose other than obtaining a bond. The producer is responsible for assuring that the bond is in effect and in the correct amount.

WEST VIRGINIA

All enactments in this state became effective 90 days after their enactment, unless otherwise specified in the summary of the enacted bill.

HB 2718: *License Bond*

ENACTED: 03/21/2007

HB 2718 requires anyone who operates lottery or related table games at a racetrack to be licensed and to post a surety bond in an amount to be determined by the West Virginia Lottery

Commission. The bond is to assure the State that the licensee will pay all amounts owed to the State under the law.

SB 138: *Costs Bond*

ENACTED: 02/20/2007

SB 138 repeals a provision in existing law that allows a magistrate, upon the request of the defendant, to require a nonresident plaintiff to post a bond to cover the costs of litigation.

SB 194: *Appeal Bond*

ENACTED: 04/03/2007

SB 194 caps appeal bonds at \$50 million in cases in which the judgment is in excess of \$50 million. The new law also provides that in all other cases, an appeal bond shall not exceed the amount of the actual judgment, plus costs, interest and fees.

SB 438: *Public Officials*

ENACTED: 04/03/2007

SB 438 eliminates the \$1 million fiduciary or surety bond that was required of each trustee of the West Virginia Investment Board (Board). The new law requires the Board to purchase a blanket bond of at least \$10 million for the faithful performance of its duties. The Board also may require that appropriate amounts of insurance or bonds for any person in charge of or with access to securities, funds or other monies of the Board. The new law also requires the Board to procure commercial property, liability crime and other insurance coverage to cover risk of loss from its operations.

SB 550: *Public Officials*

ENACTED: 03/27/2007

SB 550 eliminates the \$1500 bonds that persons authorized to perform marriages were required to post under prior law. Prior law exempted religious representatives.

WISCONSIN—Still in Session. No Commercial Surety Enactments to Date.

WYOMING

All enactments in this state became effective on July 1.

HB 196: *Appeal Bonds*

ENACTED: 03/08/2007

HB196 caps appeal bonds at \$25 million, regardless of amount of the judgment. In any action in which all appellants were either individuals or have 50 or fewer employees, the bond could not exceed \$2 million. The new law provides that if an appellee were to prove that an appellant was dissipating assets such that it could affect the ultimate payment of all or any portion of the judgment, the district court could require the appellant to post a bond in an amount up to the amount of the judgment. An appellee of a judgment to pay taxes or liens to the State must post a bond in an amount not less than the full amount of the judgment plus interest and costs of the appeal, unless it were otherwise ordered.

SB 111: *Vehicle Dealers*

ENACTED: 02/21/2007

SB 111 requires out-of-state recreational vehicle dealers to post cash or a surety bond in the amount of \$50,000 from a corporate surety licensed in the State in connection with obtaining a permit to sell such vehicles. The Attorney General must approve the bond, and it is conditioned that the permit applicant will not practice any fraud, make fraudulent misrepresentations or violate any federal or state law, rules or regulations relating to the conduct of his or her business. The bond also guarantees the return of the temporary recreational vehicle display and sales permit, recreational vehicle demo plates, unused temporary permits and stubs of temporary permits issued to purchasers. Upon substantial proof of violation the bond must be forfeited to the Department. The Department is required to return the bond to the permit holder within 30 days after the last day of the event if no sales were made in Wyoming, or one year after the date of any sales that were transacted at the event, so long as all conditions and guarantees of the bond have been met.