



The Surety & Fidelity
Association of America

2007 ANNUAL
STATE LEGISLATIVE REPORT
ON
FIDELITY

SEPTEMBER 2007

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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.

Key Issues SFAA Addressed in 2007

- **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, who is 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.

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.

- **Of Special Note.** **Utah** SB 71 repeals a requirement that fidelity bonds for county officials be recorded. 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

2007 ANNUAL STATE LEGISLATIVE REPORT ON FIDELITY

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's reports are based on the three major lines of business – contract surety, commercial surety and fidelity. The SFAA Annual State Legislative Report on Fidelity Bonds contains all the new bond requirements in 2007 and reductions or eliminations of existing bond requirements. Interested SFAA members can access the reports on contract surety and commercial surety on the SFAA website.

This final section of the SFAA Annual Report contains a comprehensive state-by-state listing of 2006 new laws affecting fidelity that have been enacted in 2007. SFAA also publishes a monthly summary of new bond enactments on its website so that members will have prompt notice of these enactments and the effective dates. All the new bond enactments are compiled in the report below, along with other state legislation that could impact fidelity bonding. SFAA members can obtain copies of these new laws on the websites of the state legislatures. SFAA staff will be happy to assist members in obtaining copies of new laws.

Summary of State Legislative Activity on Recent Issues in Fidelity

Condo Associations

--Enactments. **Hawaii** SB 1704 permits a community association unable to obtain the required fidelity bond to apply to the Real Estate Commission for an exemption, deductible or bond alternative. Existing law requires associations with five or more units to post a fidelity bond in the amount of \$500 multiplied by the number of units, but not less than \$20,000 and not more than \$200,000. **Illinois** HB 1071 requires managers of community associations to be licensed and bonded. A fidelity bond would be required in an amount not less than all the funds of the association and must cover the manager and all partners and employees of the firm in which the manager is employed. **Virginia** HB 2016 requires any managing agent of a condominium and property owners association to obtain a blanket fidelity bond or employee dishonesty insurance policy.

--Carryover. **North Carolina** SB 1315 would require community association managers to obtain a fidelity bond.

Pharmacy Benefit Managers

SFAA saw new attempts in 2007 to regulate pharmacy benefit managers (PBM), defined as persons or entities that procure prescription drugs at a negotiated rate for dispensation within a state to covered individuals. The duties of a PBM include the administration or management of prescription drug benefits and other services including mail order pharmacy; claims processing; retail network management and payment of claims to pharmacies for prescription drugs dispensed; clinical formulary development and management services; rebate contracting and administration; certain patient compliance, therapeutic intervention and generic substitution programs; and disease management programs involving prescription drug utilization. Many of these bills required a fidelity bond for licensure or registration

--Enacted. Connecticut 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.

--Carryover. Georgia HB 798 would require pharmacy benefit managers to post a fidelity bond equal to at least 1% of the funds handled or managed annually. **South Carolina** SB 206 would require pharmacy benefit managers (PBM) to maintain a fidelity bond equal to at least 10% of the amount of the funds handled or managed annually by the PBM in order to obtain a certificate of authority as a PBM. The Insurance Department would be allowed to require an amount in excess of \$500,000 but not more than 10% of the amount of the funds handled or managed annually by the PBM.

--Failed. Maine SB 450 would have required pharmacy benefit managers to post a bond of at least 10% of the funds handled or managed annually. The bond may have been required to be in excess of \$500,000 but not in excess of 10% of the funds handled or managed annually. **Texas** HB 1974 would have required pharmacy benefit managers to be licensed and maintain a fidelity bond equal to at least 10% of the funds handled.

Professional Employee Organizations

--Enacted. North Dakota SB 2036 provides that an employee is not, solely as the result of being an employee of a professional employer organization (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 PEO, unless the covered employee is included by specific reference in the PEO agreement and applicable prearranged employment contract, insurance contract or bond. **Utah** HB 29 clarifies the law regulating PEOs. It 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 is solely responsible for the acts, errors or omissions of the covered employees with regard to those activities. Existing law already provides that an employee of a PEO is not, solely as the result of being an 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 PEO, unless the employee is included by specific reference in the PEO agreement and applicable prearranged employment contract, insurance contract or bond. Similar legislation, **West Virginia** HB 2895, failed this year.

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 next year, 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. At its recent Annual Meeting, NCSL reported 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 before 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 that addressed 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 was 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 FIDELITY BONDS

ALABAMA

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

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."

ALASKA—No Fidelity Bond Enactments in 2007.

ARIZONA—No Fidelity Bond Enactments in 2007.

ARKANSAS

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

HB 2276: *Public Officials*

ENACTED: 03/19/2007

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

CALIFORNIA—Still in Session. No Fidelity Bond Enactments to Date.

COLORADO

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

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.

CONNECTICUT—No Fidelity Bond Enactments in 2007.

DELAWARE

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

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 Fidelity Bond 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 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 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.

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 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.

HAWAII

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

SB 1704: *Community Associations*

ENACTED: 07/02/2007

SB 1704 permits a community association unable to obtain the required fidelity bond to apply to the Real Estate Commission for an exemption, deductible or bond alternative. Existing law requires associations with five or more units to post a fidelity bond in the amount of \$500 multiplied by the number of units, but not less than \$20,000 and not more than \$200,000. The new law became effective upon enactment.

IDAHO—No Fidelity Bond Enactments in 2007.

ILLINOIS—Still in Session.

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

HB 1071: *Condominium Association Managers*

ENACTED: 08/21/2007

HB 1071 requires a fidelity bond in connection with licensure as a community association manager for a community association with more than six units. The new law requires the bond to be in an amount not less than all monies of the association in the manager's custody or control. The bond must cover the community association manager and all partners, officers and employees of the firm with whom the community association manager is employed during the term of the bond, as well as the community association officers, directors and employees of the

community association who control or disburse funds. The new law will become effective on January 1, 2008.

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.

INDIANA

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

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.

IOWA

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

SB 502: *Public Officials*

ENACTED: 04/20/2007

SB 502 repealed the requirements that the Division of Savings and Loans provide a \$20,000 bond for each of the Department's examiners.

SB 557: *Credit Unions*

ENACTED: 05/24/2007

SB 557 requires the new Superintendent of Credit Unions to post a bond and requires state credit unions to obtain fidelity bonds for credit union employees and officials in an amount sufficient to indemnify the credit union for losses caused by fraud, dishonesty, forgery, theft, larceny, embezzlement, wrongful abstraction, misappropriation, misapplication or any other wrongful act of the employees or officials.

SB 559: *Pre-need Funeral Contracts*

ENACTED: 05/24/2007

SB 559 requires the sellers of pre-need funeral contracts to post a \$50,000 fidelity bond or insurance policy, which must remain in place for one year after the ownership of the business is sold or transferred. The new law also contains notices to the consumer that must be on the bond or insurance.

KANSAS—No Fidelity Bond Enactments in 2007.

KENTUCKY—No Fidelity Bond Enactments in 2007.

LOUISIANA

All enactments in this state became effective on August 15.

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.

MAINE—No Fidelity Bond Enactments in 2007.

MARYLAND—No Fidelity Bond Enactments in 2007.

MASSACUSETTS—Still in Session.

MICHIGAN—Still in Session. No Fidelity Bond Enactments to Date.

MINNESOTA—No Fidelity Bond Enactments in 2007.

MISSISSIPPI

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

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 (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.

MISSOURI

All enactments in this state became effective on August 18.

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 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.

MONTANA

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

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 may deem reasonable. The law provides that the Department of Administration (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.

NEBRASKA

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

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 674: *Fidelity Bond*

ENACTED: 05/24/2007

LB 674 provides that an employer only would be permitted to use more than the last four digits of an employee's social security number for certain purposes. The bill provides that, for internal administrative purposes, the full number can not be in any files to which a temporary employee has access unless he or she was bonded or insured under a blanket corporate surety bond or an equivalent commercial insurance policy. This provision becomes effective on September 1, 2008.

NEVADA

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

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 (Department) 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 will become 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 requires officials and employees to whom the town treasurer delegates certain treasury functions to be covered under the town's blanket bond. This law became effective on August 27.

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 (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 430: *Public Officials*

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 the 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 (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 are went into effect on July 1.

HB 1032: *Public Official*

ENACTED: 04/02/2007

HB 1032 would have increased the amount of the fidelity bond required of the treasurer of the board of a sanitation district from \$5,000 to \$10,000. The bill was substituted such that it no longer impacts the fidelity bond requirement. This act became effective on July 1.

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.

NEW YORK—Still in Session. No Fidelity Bond Enactments to Date.

NORTH CAROLINA

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

SB 772: School Finance Officers

ENACTED: 06/14/2007

SB 772 changes the amount of the fidelity bond required from school finance officers. Under prior law, the board of education would fix the bond amount at not less than \$10,000 and not more than \$250,000. The new law provides that the bond will be not less than \$50,000 and does not set a maximum amount on the bond. The act becomes effective July 1, 2008.

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.

SB 2036: Professional Employer Organizations

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 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 Fidelity Bond Enactments to Date.

OKLAHOMA

All enactments in this state become effective on November 1.

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.

ORGEON

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

SB 350: *Public Official*

ENACTED: 07/17/2007

SB 350 authorizes the Director of the Economic and Community Development Department (Director) to require any officers and employees to obtain a fidelity bond if they have charge of, handle or have access to any state money or property and are not otherwise required by law to give a bond. The Director will fix the amount of the bond and must approve the sureties. The new law became effective upon enactment.

PENNSYLVANIA—Still in Session. No Fidelity Bond Enactments to Date.

RHODE ISLAND

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

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 Fidelity Bond Enactments in 2007.

SOUTH DAKOTA—No Fidelity Bond Enactments in 2007.

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 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 4015: *Public Official*

ENACTED: 06/15/2007

HB 4015 creates "economic development zones," requiring each member of the zone's board of directors to post a fidelity bond in the amount of \$10,000 to secure faithful performance of his or her duties. The act became effective upon enactment.

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 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 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 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 clarifies the law regulating professional employer organizations (PEOs). It 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 is solely responsible for the acts, errors or omissions of the covered employees with regard to those activities. Existing law already provides that an employee of a PEO is not, solely as the result of being an 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 PEO, unless the employee is included by specific reference in the PEO agreement and applicable prearranged employment contract, insurance contract or bond.

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.

VERMONT—No Fidelity Bond 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 2016/SB 844: Condominium and Property Owners Association Acts

ENACTED: 03/21/2007

HB 2016/SB 844 requires any unit owners' association that collects assessments for common expenses to obtain a blanket fidelity bond or employee dishonesty insurance policy. The bond or policy must cover the officers, directors and employees of the association, as well as any

managing agent and his or her employees. The bond or policy must provide a minimum of \$10,000 in coverage.

WASHINGTON—No Fidelity Bond Enactments in 2007.

WEST VIRGINIA

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

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 Fidelity Bond Enactments to Date.

WYOMING—No Fidelity Bond Enactments in 2007.