

# THE SURETY & FIDELITY ASSOCIATION OF AMERICA

## MEMORANDUM

**TO:** Government Affairs Advisory Committee  
**FROM:** Daniel Wanke  
**RE:** Commercial Surety Legislation  
**DATE:** February 3, 2010

---

There are 36 states and the District of Columbia in regular session, while four states are pre-filing for upcoming sessions. The following report compiles and summarizes commercial surety legislation under consideration in 2010, which SFAA is tracking and addressing, as necessary, with the AIA and the local surety associations. Summaries of legislation that have appeared in previous SFAA reports have been marked (R) for your convenience.

In almost all of the states, 2010 marks the second year of the legislative session, except for **New Jersey** and **Virginia**, which are beginning a new session. **Montana, Nevada, North Dakota, Oregon** and **Texas** will not meet in 2010 as they only meet every other year. **Arkansas** for the first time is holding a “fiscal session” this year to address the state budget, which is a departure from its usual biennial session. The following is a compilation of legislation currently pending that would impact commercial surety. As always, your input is vital to our efforts, so if you have any questions, comments or information on legislation, please do not hesitate to contact us.

### ALABAMA

#### **HB 179/SB 231: Miscellaneous Bond—Certificate of Title for Vehicles**

**INTRODUCED:** 01/12/2010

**STATUS:**

01/28/2010

From House Committee on Government Operations:

Reported Favorably.

**POSITION:** Support

HB 179/SB 231 would revise the amount of the bond required to obtain a certificate of title for a vehicle when the owner does not have sufficient documentation of ownership. Current law provides that if the Department of Revenue (Department) is not satisfied with the documentation of ownership submitted with the application for a certificate of title, then it may require a surety bond in an amount equal to 1.5 times the value of the vehicle. Instead, the Department would determine the amount required. The bond indemnifies any prior or subsequent owner or lien holder who may have a security interest in the vehicle for any losses incurred by the issuance of a certificate of title to the applicant.

**HB 188: Public Officials**

**INTRODUCED:** 01/12/2010

**STATUS:**

01/26/2010 Passed House. To Senate.

**POSITION:** Support—New Bonding Opportunity

HB 188 would require the employees or officials of an emergency telephone district that handle or disburse its funds to post a bond in an amount not less than the total funds that the district received in the prior fiscal year.

**HB 235: License Bond & Fiduciary Bond—Casinos**

**INTRODUCED:** 01/12/2010

**STATUS:**

01/12/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

HB 235 would authorize and regulate casino gaming in cities with a population larger than 100,000, requiring a license bond in the amount of \$1 million conditioned on compliance with the applicable law and regulations. The surety's liability would be limited to the amount specified in the bond. Further, if the casino's license was to be suspended or revoked, and the casino was placed into a conservatorship, the conservator would have to be bonded to secure his or her faithful performance.

**SB 70: License Bond—Barber Schools**

**INTRODUCED:** 01/12/2010

**STATUS:**

01/12/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

SB 70 would require barber schools to be licensed and post a \$10,000 surety bond from a bonding company licensed to do business in the State. The bond would be conditioned on the school's continued instruction in the "theory and practice of barbering." The bill would permit direct actions on the bond from students suffering damages for the school's failure to continue to provide instruction. The surety's aggregate liability would be limited to the bond amount.

**SB 103: License Bond—Wastewater Systems**

**INTRODUCED:** 01/12/2010

**STATUS:**

01/14/2010 From Senate Committee on Governmental Affairs:  
Reported Favorably.

**POSITION:** Support—New Bonding Opportunity

SB 103 would subject those required under existing law to obtain a pumper's license to the surety bond requirements for other onsite wastewater system licensees. The bill also would require licensure for those involved in installing, transporting, pumping, servicing, repairing, maintaining, and cleaning portable toilets. Such licensees also would be subjected to the bond requirement in existing law. The Alabama Onsite Wastewater Board determines the amount of the bond, which at a minimum, must be \$15,000.

## **ARIZONA**

### **HB 2208: Miscellaneous Bond—Private Prisons**

**INTRODUCED:** 01/14/2010

**STATUS:**

01/14/2010 Introduced.

**POSITION:** Support

HB 2208 would revise the amount of the proof of financial responsibility that private prisons are required to obtain, which may be in the form of an insurance policy or a surety bond. Currently, the bond or policy must be for \$10 million. The bill would change this to an amount not less than \$10 million, and would allow the Department of Corrections to determine the amount required.

### **SB 1177: Miscellaneous Bond—Cemetery Salespersons and Brokers**

**INTRODUCED:** 01/20/2010

**STATUS:**

01/20/2010 Introduced.

**POSITION:** Oppose—Repeals Bond Requirement

SB 1177 would repeal the bond requirement for cemetery salespersons and brokers. Current law requires a bond from such persons if they have committed violations of the law, been convicted of a felony or misdemeanor for fraud or any conviction involving real estate transactions, or if they had an administrative order entered against them. The bond must be in an amount not to exceed \$100,000. SFAA would like to see this bond applicable to all salespersons and brokers.

### **SB 1218: Miscellaneous Bonds—Contractors**

**INTRODUCED:** 01/26/2010

**STATUS:**

01/26/2010 Introduced.

**POSITION:** Oppose—Adverse Selection Problems

SB 1218 would allow contractors to post a \$30,000 surety bond if the Registrar suspended or revoked his or her license. The bond would stay the revocation or suspension of the license and allow the contractor to appeal the decision in court. The bond would be for the benefit of the Registrar and the complainant and would be used to pay any claims in lieu of any money from the Residential Contractors' Recovery Fund.

### **SB 1296: Miscellaneous Bond—Energy Savings Contracts**

**INTRODUCED:** 01/28/2010

**STATUS:**

01/28/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

SB 1296 would provide for energy and water saving measures for cities, towns and counties in Arizona. The bill would authorize a public entity's agent to contract for the installation of energy and water saving equipment with a qualified provider, who would have to post a surety bond to secure the performance of the installation of the energy and water savings measures.

## **COLORADO**

### **HB 1018: Financial Assurance—Waste Tires**

**INTRODUCED:** 01/13/2010

**STATUS:**

01/13/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

HB 1018 would require waste tire facility operators to register and meet financial assurance requirements for the reclamation of the site and assure full payment of all closure and post-closure costs, as well as any costs for corrective actions. Surety bonds, among other financial instruments, would be accepted to meet this requirement. The Hazardous Waste Commission would determine the amount required.

### **HB 1062: Public Officials**

**INTRODUCED:** 01/13/2010

**STATUS:**

01/29/2010 Passed House. To Senate.

**POSITION:** Seeking Amendments

HB 1062 would give counties the option of purchasing crime insurance coverage in lieu of a public official bond to protect against the malfeasance of various county officers. Although we generally oppose attempts to repeal or allow alternatives to a bond requirement, SFAA members actively write both of these coverages. There is, however, a problem with taxpayer lawsuits under crime insurance policies under Section 30-10-316 such that the crime insurance option intended in this legislation likely would not be workable.

Under current law, in which a public official bond is required, the district attorney, county attorney or any taxpayer of the county that will become liable for the costs of the suit can bring suit against the principal and the sureties on the bond to recover damages that the county has suffered. HB 1062 would amend this provision to similarly allow such persons to bring suit under the crime insurance policy. Since crime insurance is a two-party agreement that generally does not permit third-party suits, we believe that the intended option of crime insurance may not be widely available. SFAA had the AIA state counsel explain the differences in the coverage provided between the bond and the crime insurance. We suggested improvements to the bill, but they were not included in the bill as passed in the House.

### **HB 1125: Financial Assurance—Grease Collection and Disposal**

**INTRODUCED:** 01/15/2010

**STATUS:**

01/15/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

HB 1125 would regulate the collection, transportation, and disposal of trap grease and yellow grease. Persons, facilities, and vehicles engaged in the collection, transportation, storage, processing, or disposal of grease would have to register with the Department of Public Health and Environment and post a surety bond or "other debt instrument" as financial assurance. The bond would secure the remediation of any harm to the environment or health that resulted from noncompliant dumping or disposal of the grease.

**HB 1165: Miscellaneous Bonds—Purchase of State Land**

**INTRODUCED:** 01/22/2010

**STATUS:**

01/22/2010 Introduced.

**POSITION:** Neutral

HB 1165 would permit cash or other security to be posted in lieu of the bond required under existing law for the purchase of state lands.

**FLORIDA**

**HB 511/SB 1162: Public Officials**

**PRE-FILED:** 12/17/2009

**STATUS:**

12/17/2009 Pre-filed.

**POSITION:** Support—New Bonding Opportunity

HB 511/SB 1162 would create the Children's Trust of Collier County (Trust) to provide public services for children. The Trust would be authorized to assess ad valorem taxes on all taxable property in Collier County. The bill would require the chair of the Trust or any other trustee or employee who signs checks on behalf of the Trust to post a surety bond in an amount equal to at least \$1,000 for each \$1 million of funds assessed annually. The bond would be conditioned on the faithful performance of the duties of office. The trustees would decide the actual bond amount required based on "professional advice."

**SB 146/HB 153: Public Officials**

**PRE-FILED:** 10/05/2009

**STATUS:**

10/05/2009 Pre-filed

**POSITION:** Support—New Bonding Opportunity

SB 146/HB 153 would authorize counties to create districts that provide services for seniors. The chair of each council for these districts and any other designee or officer authorized to sign checks would have to post a surety bond in an amount equal to \$1,000 for every \$1 million, or portion thereof, of the council's annual budget. The bond would be conditioned on the faithful performance of the duties of office.

**SB 938/HB 311: Debt Settlement Services**

**PRE-FILED:** 12/15/2009

**STATUS:**

12/15/2009 Pre-filed.

**POSITION:** Support—New Bonding Opportunity

SB 938/HB 311 would regulate debt settlement service providers. The bill would require licensure and either an insurance policy or a surety bond. The bond would have had to be from a surety company authorized to do business in the State in an amount ranging from \$10,000 to \$50,000, as determined by the Office of Financial Regulation. The amount would be based on the provider's financial condition, experience and risk to consumers. The aggregate liability of the surety would be limited to the penal sum of the bond.

## GEORGIA

### **HB 989: Miscellaneous Bonds—Public Employee Health Plans**

**INTRODUCED:** 01/26/2010

**STATUS:**

01/26/2010 Introduced.

**POSITION:** Support

HB 989 would permit the Board of Community Health (Board) to contract with municipalities to include municipal employees in health plans offered by the State to its employees. The bill would direct the Board to require any entity with which it contracts under the bill's provisions to post a surety bond to guarantee the faithful performance of the contract.

### **◆ SB 131: Fiduciary Bond—Trust Code**

**INTRODUCED:** 02/10/2009

**STATUS:**

01/27/2010 From House Committee On Judiciary: Favorably Reported as Substituted.

**POSITION:** Oppose—Seeking Amendments

SB 131 would revise Georgia's Trust Code. The bill provides that a trustee would be required to furnish a bond only when the court deems it necessary to protect the interests of the trust, or if the trust instrument required one. However, the bill also would permit the court to excuse the requirement, reduce or increase the amount of a bond, release a surety, or permit the substitution of another bond with the same or different sureties. A regulated financial service institution qualified to do trust business in the State would not be required to give a bond, even if the terms of the trust required one. Of note, the bill would permit the bond to be secured by an individual domiciled in the State or by a licensed commercial surety that is authorized to transact business in the State. The bill further provides the bond would have to be in an amount equal to double the value of the estate, but it would permit the commercially obtained bond to be in an amount equal to the value of the trust estate. The recent substitution did not impact the bonding provisions.

### **SB 310: License Bond—Pharmacy Benefit Managers**

**INTRODUCED:** 01/13/2010

**STATUS:**

01/13/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

SB 310 would require pharmacy benefit managers to be licensed and post a \$100,000 surety bond from a corporate surety insurer authorized to transact insurance in the State. Sureties could cancel the bond with 30 days advance written notice. The other terms of the bond would be determined by regulations. A minimum \$250,000 errors and omissions insurance policy or "other appropriate liability insurance" also would be required.

## HAWAII

### **HB 2021/HB 2833/SB 2200: Miscellaneous Bond—Development Agreements**

**INTRODUCED:** 01/20/2010

**STATUS:**

01/20/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

HB 2021/HB 2833/SB 2200 would require a bond in connection with a development agreement for a hotel or resort. The bond would secure the full and faithful performance of the development agreement. **HB 2833** and **SB 2200** have not moved since they were introduced.

**HB 2278/SB 2603: License Bond—Mortgage Loan Originators**

**INTRODUCED:** 01/21/2010

**STATUS:**

01/21/2010 Introduced.

**POSITION:** Oppose—Repeals Bond Requirement

HB 2278/SB 2603 would replace the current mortgage loan originator license bond requirements enacted in 2009 with a recovery fund. The federal standards for mortgage loan originators with which the 2009 law complies does permit a recovery fund in lieu of surety bonds. Most states, including Hawaii, chose to alter the existing bonding requirements. The law requires originators to be covered by a surety bond in an amount based on the dollar amount of the loans originated. If the loan originator is an employee or an exclusive agent of a licensee, coverage under the employer's bond fulfills the requirement. The law requires the bond to provide coverage for all originators. The Commissioner of Financial Institutions was directed to promulgate rules to implement the bond requirement, which has not yet occurred.

The bill would require licensees to pay into a fund instead that would be for any person aggrieved by an act, representation, transaction, or conduct of a licensed mortgage loan originator resulting from the licensee's fraud, misrepresentation, or deceit. Such persons could recover from the fund with a court order in an amount of not more than \$25,000 per transaction for damages sustained.

**HB 2336/SB 2011: Miscellaneous Bond—Professional Employer Organizations**

**INTRODUCED:** 01/21/2010

**STATUS:**

01/21/2010 Introduced.

**POSITION:** Support—Seeking Amendments to Address Adverse Selection Problems

HB 2336/SB 2011 would require PEOs to maintain a positive working capital of not less than \$100,000. If the PEO does not have a positive working capital, the bill would permit it to post a bond, letter of credit, or securities in an amount that would make up the deficiency. The bond would secure 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 bonds, surety bonds, employer's liability which is not covered by workers' compensation and employer's 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 adopted in other states.

**HB 2396/SB 2867: License Bond—Casinos**

**INTRODUCED:** 01/22/2010

**STATUS:**

01/22/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

HB 2396/SB 2867 would authorize and regulate casino gaming in Hawaii, requiring licensure and a \$200,000 surety bond. The bond would guarantee that the licensee would comply with the proposed law and any rules adopted to implement it.

**HB 2417/SB 2607: Miscellaneous Bond—Activity Desks**

**INTRODUCED:** 01/22/2010

**STATUS:**

01/22/2010 Introduced.

**POSITION:** Oppose—Repeals Bond Requirement

HB 2417/SB 2607 would repeal the bond requirement for activity desks, which are businesses that act as an intermediary to sell, contract for, or arrange for activities which are furnished by an activity provider who provides specialized air, land, or sea tour excursions and activities. Current law requires the activity desk to maintain client funds in a trust account or furnish a surety bond or irrevocable letter of credit. The bond indemnifies any consumer who may suffer loss as a result of an activity desk's failure to perform its duties. The bond must be in an amount equal to the average monthly net sales revenues of the activity desk for a twelve-month period. The bond cannot be less than \$50,000 or more than \$100,000. If passed, this bill would eliminate the requirement for a bond or letter of credit and maintain the trust account provisions.

**HB 2544/SB 2697: Miscellaneous Bond—Managing General Agents**

**INTRODUCED:** 01/25/2010

**STATUS:**

01/25/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

HB 2544/SB 2697 would require an insurer's managing general agent to post a surety bond in an amount equal to \$100,000 or 10% of the agent's total annual premiums written nationwide for the insurer in the previous calendar year, whichever would be greater. The bond amount could not exceed \$500,000. A \$1 million errors and omissions insurance policy also would be required.

**SB 2334: Miscellaneous Bond—Resident Property Managers**

**INTRODUCED:** 01/21/2010

**DISPOSITION:** Pending

**STATUS:**

01/21/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

SB 2334 would regulate resident managers of a condominium project, cooperative housing corporation, or a planned unit development. Such persons are employed by an association, live in a dwelling unit on site and are responsible for overseeing the day-to-day maintenance and care of the property. Each resident manager would be required to post a surety bond to secure his or her compliance with the law and the residential landlord-tenant code. The bond would be for the

benefit of any person, including the association or the board, who sustained loss or damage due to the resident manager's violation of the law or landlord-tenant code.

## ILLINOIS

### **HB 4781: License Bond—Debt Settlement Providers**

**INTRODUCED:** 01/12/2010

**STATUS:**

01/12/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity  
Seeking Amendments for Bond Amount

HB 4781 would require debt settlement providers to be licensed and post a minimum \$1 million surety bond. The Director of the Division of Financial Institutions could require a larger bond amount based on the disbursements that the provider made in the previous year. The bond would have to be issued by an insurance company licensed in the State to transact the business of fidelity and surety insurance.

### **HB 5078: Court Bond**

**INTRODUCED:** 01/26/2010

**STATUS:**

01/26/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

HB 5078 would require persons filing a petition for modification of a visitation order in a child custody agreement to post a bond if the person owed past due child support exceeding \$10,000. The bond would have to be in an amount equal to the past due amount. The court would hold the bond in escrow until the modification proceedings were concluded.

## INDIANA

### **HB 1035: Permit Bond—Farm Wineries**

**INTRODUCED:** 01/05/2010

**STATUS:**

01/05/2010 Introduced.

**POSITION:** Oppose

HB 1035 would provide an exemption from the direct wine seller permit requirement for those holding both a farm winery permit and a partial ownership interest in a wine wholesaler permit, and for those holding supplemental direct wine seller's permit. This would include an exemption from the bond requirement, which is a surety bond or cash in the amount of \$1,000.

### **HB 1226 and SB 414: Miscellaneous Bond—Medicaid Suppliers and Providers**

**INTRODUCED:** 01/11/2010

**STATUS:**

01/26/2010 From House Committee on Public Health: Do Pass as Amended.

01/26/2010 Committee Amendment Adopted on House Floor.

**POSITION:** Seeking Amendments

HB 1226, as amended, would require transportation suppliers and durable medical equipment suppliers that are enrolling in Medicaid, changing the ownership of a Medicaid provider or those that are purchasing or transferring the assets or ownership interests of a Medicaid provider and enrolling as a provider in the Medicaid program to post a surety bond in the amount of \$25,000 if the suppliers billed \$50,000 or more, but less than \$250,000 annually. If the supplier's annual Medicaid billings were more than \$250,000, then a \$50,000 bond would be required. Originally the bill would have applied to Medicaid providers generally and the bond amount would have been \$50,000, regardless of the amount of the provider's Medicaid billings. The bill would exempt transportation and durable medical equipment suppliers from the bond requirement if they billed less than \$50,000 annually under the Medicaid program.

As provided in the original bill, an additional \$50,000 bond would be required for each adverse judgment or final order related to Medicaid services within the ten years preceding enrollment, renewal, or the purchase or transfer of ownership. The bill provides that the surety bond would be liable for duplicate, erroneous, or false claims that the Office of Medicaid Planning and Policy (Office) paid to the supplier under Medicaid during the term of the bond. Further, the bond would have to guarantee that the surety will pay claims to the Office within 30 days of receiving notice establishing sufficient evidence of the surety's liability, which would be limited to the bond amount.

HB 1226 would exempt the following persons from the bonding requirement: persons licensed or certified by one of the State's health professional boards; persons who have posted a surety bond under the federal Medicare program to sell durable medical equipment; retail facilities with a pharmacy permit; and facilities or businesses owned or operated by a state licensed hospital.

**SB 414** has not moved since it was introduced. The bill is identical to the introduced version of HB 1226 and would require Medicaid providers to submit a \$50,000 surety bond in connection with the submission of their provider agreements when the provider enrolls, renews or purchases or transfers ownership of a provider. SB 414 also contains the same provisions as HB 1226 that would require additional bonds from the provider in the event of an adverse judgment or final order.

**HB 1240/HB 1166/SB 357: Miscellaneous Bond—Professional Employer Organizations**

**INTRODUCED:** 01/11/2010

**STATUS:**

01/28/2010 From House Committee on Insurance: Do Pass as Amended.

01/28/2010 Committee Amendment Adopted on House Floor.

**POSITION:** Oppose—Adverse Selection  
Seeking Amendments

HB 1240/HB 1166/SB 357 would require Professional Employer Organizations (PEO) to maintain a positive working capital. If the PEO did not have a positive working capital, then it would have to post a form of security in an amount sufficient to make up the deficiency, plus \$100,000. Surety bonds would be accepted to meet this requirement. Current law requires the PEO to maintain a net worth of \$50,000 or post a bond with a market value equal to this amount. The recent amendments to **HB 1240** did not impact the bond requirement. **HB 1166** has not

moved since it was introduced. **SB 357** passed out of committee in the Senate and is pending on the Senate floor.

**HB 1245: Court Bond**

**INTRODUCED:** 01/12/2010

**STATUS:**

01/12/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

HB 1245 would provide for new zoning commission procedures. Any petitioner seeking judicial review of a zoning commission decision would have to post a surety bond in the amount of \$500 to secure the costs of the judicial proceeding and to guarantee compliance with the zoning commission's decision should the court not set it aside.

**SB 131: Public Official Bond**

**INTRODUCED:** 01/05/2010

**STATUS:**

01/05/2010 Introduced.

**POSITION:** Support

SB 131 would clarify existing law to provide that town clerk-treasurers appointed to office are subject to the existing bond requirement for elected town clerk-treasurers.

**SB 176/HB 1247: Miscellaneous Bond—Nonparticipating Tobacco Manufacturers**

**INTRODUCED:** 01/08/2010

**STATUS:**

01/28/2010 Passed Senate. To House.

**POSITION:** Support—New Bonding Opportunity

SB 176/HB 1247 would require "nonparticipating tobacco manufacturers" to post a bond to be listed in the State's directory of tobacco manufacturers and cigarette brands. Nonparticipating manufacturers do not participate in the Master Settlement Agreement and instead place funds in escrow. Such manufacturers also could be required to post a bond if they have been determined to pose an elevated risk for noncompliance with the law. The bond would have to be in the amount of \$50,000, or the amount the manufacturer would be required to deposit due to its previous calendar year's sales in Indiana, whichever would be greater. **HB 1247** has not moved since it was introduced.

**SB 298/SB 397: Public Officials**

**INTRODUCED:** 01/11/2010

**STATUS:**

02/02/2010 Passed Senate. To House.

**POSITION:** Support—New Bonding Opportunity

SB 298/SB 397 would create the Indiana Public Retirement System (System) for the management of various state retirement funds, pensions and disability or benefit funds. The Director of the System would be required to post a corporate surety bond in an amount that the System's board of directors determined. **SB 398** passed out of committee in the Senate.

**SB 328: License Bonds—Financial Institutions and Professionals**

**INTRODUCED:** 01/11/2010

**STATUS:**

01/26/2010 From Senate Committee on Insurance and Financial Institutions: Do Pass as Amended.

01/26/2010 Committee Amendment Adopted on Senate Floor.

**POSITION:** Support

SB 328 would revise the law concerning various financial institutions and professionals. First lien mortgage lenders and consumer lenders would have to comply with new federal standards concerning the licensing of mortgage loan originators and post a bond in an amount that reflects the dollar amount of mortgage transactions originated according to the determination of the Director of the Department of Financial Institutions (Director). The bill would authorize the Director to adopt rules to implement the surety bond requirement.

Further, the bill would amend the bond requirement for lenders making small loans by eliminating the current cap on the bond amount. (Small loans under current law are those of \$550 or less.) Existing law requires a \$50,000 license bond for each location where small loans will be made. The bond amount cannot exceed \$500,000 under existing law, but the bill would have the Department of Financial Institutions (Department) determine the maximum bond amount instead.

The bill also would revise the current bond requirement for debt management service providers. Current law requires a \$25,000 license bond conditioned on the faithful performance of the Department's rules and regulations and compliance with the State's laws. Instead, the Director would determine the amount required and the standards applicable to the bond.

Finally, the bill would expand the statutorily required coverage for fidelity bonds for credit unions to include its directors. Current law only mandates that the bond cover the credit union's officers and employees. The law permits the use of blanket fidelity bonds. The recent amendments did not impact the bonding provisions in this bill.

**SB 405: Miscellaneous Bond—Advanced Deposit Wagering**

**INTRODUCED:** 01/13/2010

**STATUS:**

01/28/2010 From Senate Committee on Appropriations: Do Pass as Amended.

01/28/2010 Committee Amendment Adopted on Senate Floor.

**POSITION:** Support—New Bonding Opportunity

SB 405 would permit advance deposit wagering for horse races. The bill would direct the Commission to adopt rules requiring secondary pari-mutuel organizations to provide a guarantee or "other surety" that the full value of the balances in an advanced deposit wagering account will be paid. As introduced, the bill did not impact surety, but it was recently amended to include these provisions.

## **IOWA**

### **HSB 559/SSB 3076: Release of Lien Bonds**

**INTRODUCED:** 01/14/2010

**STATUS:**

01/14/2010 Introduced.

**POSITION:** Neutral

HSB 559/SSB 3076 would revise the existing law concerning bonds for the discharge of a mechanic's lien by eliminating the specifications for who can post the bond. Current law provides that the owner, principal contractor, or intermediate subcontractor can post the bond.

### **HSB 618/SSB 3080: Pre-need Funeral and Cemetery Agreements**

**INTRODUCED:** 01/25/2010

**STATUS:**

01/25/2010 Introduced.

**POSITION:** Support

HSB 618/SSB 3080 would increase the amount of the surety bond required for a purchase agreement for cemetery merchandise, funeral merchandise, and funeral services. Currently, the bond must be in the amount of 80% of the payments made for the purchase agreement, or the seller must deposit 80% of the payments into a trust fund. The bill would require the bond or deposits into the trust account to be equal to the amount of the payments. Current law also requires a fidelity bond for sellers of pre-need agreements using the trust fund option, unless they have deposited all payments into a trust fund. If the bill passes, the seller still would have to obtain a fidelity bond for all purchase agreements entered into prior to July 1, 2010, if the seller did not deposit 100% of the payments into the trust account.

### **HSB 629/SB 3155: License Bond—Real Estate Closing Agents**

**INTRODUCED:** 01/26/2010

**STATUS:**

01/26/2010 Introduced

**POSITION:** Support—New Bonding Opportunity  
Seeking Amendments for Bond Amount

HSB 629/SSB 3155 would regulate real estate closing agents, requiring licensure and a \$250,000 surety bond. The bond would be conditioned on compliance with the applicable law and regulations. An errors and omissions insurance policy for \$250,000 would be required in addition to the bond. The surety could cancel the bond with 30 days advance written notice.

## **KENTUCKY**

### **HB 77/SB 43: School Bond**

**INTRODUCED:** 01/05/2010

**STATUS:**

01/05/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

HB 77/SB 43 would create the Students with Special Needs Scholarship Program. Non-public schools participating in this program would have to demonstrate that they could pay any funds owed to the State by filing a surety bond with the Department of Education (Department) in an

amount equal to the aggregate amount of the scholarships expected to be received during the school year. In lieu of the bond, the school could file financial information with the Department demonstrating adequate financial resources for the program.

**HB 110/SB 81: Public Officials**

**INTRODUCED:** 01/05/2010

**STATUS:**

01/27/2010 From House Committee on Licensing and Occupations:  
Reported Favorably.

01/28/2010 Posted for Passage in Regular Orders of the Day.

**POSITION:** Oppose—Repeals Bond Requirement

HB 110/SB 81 would eliminate the bond requirement for the secretary-treasurer of the State Board of Licensure for Professional Engineers and Land Surveyors (Board). A bond is required for this office and any other person handling the Board's expenditures or disbursing its funds. The Board determines the amount required.

**HB 166: License Bond—Debt Adjusters**

**INTRODUCED:** 01/05/2010

**STATUS:**

01/05/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

HB 166 would require debt adjusters to post a \$25,000 bond from a surety company admitted to do business in the Commonwealth in connection with registration. The bond would be for the benefit of any person suffering an injury or loss that resulted from the debt adjuster's violation of the law. In addition to the registration period, the bond would have to be in effect for two years after the debt adjuster ceased to provide its services. The bill would permit direct actions on the bond.

**HB 221: Public Officials**

**INTRODUCED:** 01/08/2010

**STATUS:**

01/08/2010 Introduced.

01/15/2010 Posted in committee.

**POSITION:** Support—New Bonding Opportunity

HB 221 would establish regional wastewater commissions (commission). Each commissioner would have to post a bond to secure the faithful performance of his or her duties. The bond also would secure all money coming into the commissioners' hands or under their control. The bond amount would be based upon the maximum amount of public funds the commissioner handles at any given time during a fiscal year. The commission would be responsible for determining the amount required.

**HB 233: License Bond—Public Adjusters**

**INTRODUCED:** 01/11/2010

**STATUS:**

01/20/2010 From House Committee on Banking and Insurance:  
Reported Favorably with Substitute.

01/25/2010 Floor Amendment Filed to Committee Substitute.  
Amendment No. 1.

01/28/2010 Floor Amendment Filed to Committee Substitute.  
Amendment No. 2.

**POSITION:** Support—New Bonding Opportunity

HB 233 would adopt the model public adjuster law of the National Association of Insurance Commissioners. Public adjusters would have to post a surety bond or irrevocable letter of credit in a minimum amount of \$20,000. The bond would be for the benefit of any person in Kentucky who sustained damages as the result of the public adjuster's erroneous acts, failure to act, conviction of fraud, or conviction of unfair trade practices.

#### **HB 264: Depository Bonds**

**INTRODUCED:** 01/14/2010

**STATUS:**

01/14/2010 Introduced.

**POSITION:** Support

HB 264 would change the depository bond requirements for depositories of local boards of education in the Commonwealth. The law now requires the depository to post a bond that is guaranteed by at least five solvent personal sureties whose solvency must exceed the amount of the bond, or by a surety company authorized to do business in the State, or through a collateral bond as provided for under the general banking laws of the State and the bonding laws for the safeguarding of state funds. The board determines the amount of the bond. Instead, the bill would require the depository to comply with an existing law concerning collateral for depositories. This law requires a surety bond, a pledge of collateral, securities or other obligations that have a face value equal to the amount of the deposits. This law also permits the bond to be in an amount equal to 80% of the deposits based on the strength of the depository's credit rating and/or risk of default.

#### **HB 340: Miscellaneous Bond—Leased Prison Laborers**

**INTRODUCED:** 01/28/2010

**STATUS:**

01/28/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

HB 340 would require the Kentucky Department of Corrections (Department) to require a surety bond from any person leasing the labor of a prisoner. The Department would determine the bond amount. The bond would secure against any judgment that might be entered against the Department resulting from the leasing of prisoner labor to that person.

#### **SB 66: License Bond—Real Estate Appraisal Management Companies**

**INTRODUCED:** 01/05/2010

**STATUS:**

01/05/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity  
Seeking Amendments on Amount

SB 66 would regulate real estate appraisal management companies, requiring registration and a surety bond to secure the faithful performance of the company's duties. The bond amount would

be determined by regulations, but the amount could not exceed \$500,000. The bill would permit direct actions on the bond, but the surety's aggregate liability could not exceed the penal sum of the bond. SFAA wrote a letter to the bill sponsor concerning direct actions.

#### **SB 78: Fiduciary Bond**

**INTRODUCED:** 01/07/2010

**STATUS:**

01/07/2010 Introduced.

**POSITION:** Neutral

SB 78 would allow the Kentucky Department of Veterans' Affairs (Department) to act as a fiduciary and to be appointed as a guardian or a conservator for disabled veterans or the minor child of a veteran. The bill would exempt the Department from filing the required court bond for conservators and guardians.

### **MAINE**

#### **HB 1149: Miscellaneous Bond—Service Contracts**

**INTRODUCED:** 01/06/2010

**STATUS:**

01/06/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

HB 1149 would regulate service contracts. The bill would require service contract providers to maintain a funded reserve account, as well as provide a form of financial security, which could be in the form of a surety bond, a deposit of cash, securities, a letter of credit or another form of acceptable security. The financial security instrument would have to be in an amount not less than 5% of the gross consideration the provider received from consumers from the sale of all service contracts issued and in force, less any claims paid. In no case could the security be less than \$25,000. In lieu of such financial instruments, the provider or its parent company could maintain a net worth or stockholder's equity of at least \$100 million.

### **MARYLAND**

#### **SB 363: Coal Combustion**

**INTRODUCED:** 01/28/2010

**STATUS:**

01/28/2010 Introduced.

**POSITION:** Neutral

SB 363 would authorize the Department of Environment to require a bond in connection with a permit for the use of any coal-combustion by-product for reclamation of a mining site. The bond would secure compliance with the applicable state and federal law. The maximum bond amount would be \$7,500 per acre based on the number of affected acres. Existing law already requires a bond in connection with a mining operation permit. The bond provided for in the bill would be required in addition to the existing law's reclamation bond requirements.

### **MASSACHUSETTS**

#### **◆ HB 4138: Public Officials**

**INTRODUCED:** 06/25/2009

**STATUS:**

01/20/2010 In Joint Committee on Health Care Financing: Heard.  
Eligible for Executive Session.

**POSITION:** Support—New Bonding Opportunity

HB 4138 would create the Cape Care Community Health Trust (Trust). The bill would require all of the Trust's officers and employees that have access to its cash or negotiable securities to post a bond in an amount and with such surety as the Trust's Board of Trustees prescribed. The persons required to post the bond could be included in one or more blanket or scheduled bonds.

**HB 4367: Tax Bond**

**INTRODUCED:** 11/23/2009

**STATUS:**

11/23/2009 Introduced.

**POSITION:** Support

HB 4367 would provide an additional cap on the amount of the bond required under existing law for vendors collecting the state gasoline sales tax. Current law requires vendors collecting sales taxes to post a bond to secure the payment of the taxes. The Commissioner of Revenue determines the amount required, but it cannot exceed the vendor's average tax liability for a six-month period. For vendors collecting the state gasoline tax, if their tax liability for this period exceeded \$1 million, this bill would cap the bond at \$1 million.

**◆ SB 2073: Public Officials**

**INTRODUCED:** 06/04/2009

**STATUS:**

12/10/2009 In House. Ordered To Third Reading.

**POSITION:** Support—New Bonding Opportunity

SB 2073 would create the Sandwich Economic Initiative Corporation and would require the treasurer of its board of directors (board) to be bonded to secure the faithful performance of his or her duties. The board will determine the amount required.

**MICHIGAN**

**SB 1057: Miscellaneous Bond—Permit Distributors**

**INTRODUCED:** 01/13/2010

**STATUS:**

01/20/2010 From Senate Committee on Natural Resources and  
Environmental Affairs: Recommended Passage.

**POSITION:** Support—New Bonding Opportunity

SB 1057 provides for the issuance of various motor vehicle park permits for Michigan's state parks. The bill would allow the Department of Natural Resources to designate persons in the State to sell the permits. A surety bond would be required as a condition of the designation if the person is not a Department employee. The Department would determine the amount required.

**MINNESOTA**

**HB 2560: Financial Assurance—Nonferrous Metallic Mining Operations**

**PRE-FILED:** 01/07/2010

**STATUS:**  
01/07/2010 Pre-filed.  
**POSITION:** Oppose

HB 2560 would create special financial assurance requirements for nonferrous metallic mining operations. The bill also would specify that ferrous (iron) mining operations are required to comply with the law's existing requirements. For nonferrous metallic mining operations, financial assurance would be required for reclamation activities including closure, post-closure care and any necessary corrective actions. Surety bonds are permitted under existing law, but the bill would eliminate this provision, while authorizing other forms of security. Of note, the bill would prohibit the use of corporate guarantees, self-guarantees, self-assurances, and mining insurance to meet the financial assurance requirements.

**HB 2600: License Bond—Mortgage Loan Originators**

**PRE-FILED:** 01/07/2010  
**STATUS:**  
01/07/2010 Pre-filed.  
**POSITION:** Support—New Bonding Opportunity

HB 2600 would regulate mortgage loan originators pursuant to federal standards that all states must adopt. Mortgage loan originators would have to be licensed and covered by a surety bond, either by posting one or through their employer's bond if they are the employee or exclusive agent of a person subject to the bonding requirements. The bond would have to provide coverage for all mortgage loan originators and be in an amount that reflects the dollar amount of loans originated. The Commissioner of Commerce would determine the amount required.

**MISSISSIPPI**

**HB 945: License Bond—Residential Contractors**

**INTRODUCED:** 01/18/2010  
**STATUS:**  
02/02/2010 From House Committee on Judiciary B: Do Pass with Substitute.  
**POSITION:** Seeking License Bond

HB 945 would create a State Board of Contractors to license and regulate residential builders and remodelers. To be licensed, the contractors need only show proof of workers compensation insurance and a federal and state tax ID number. SFAA believes that this is a good opportunity to seek a license bond.

**HB 1164: Miscellaneous Bond—Proprietary Schools and Colleges**

**INTRODUCED:** 01/18/2010  
**STATUS:**  
01/27/2010 From House Committee on Universities and Colleges: Do Pass.  
**POSITION:** Neutral

HB 1164 would eliminate the specified amount of the surety bond required for proprietary schools and colleges. Current law requires a bond for \$50,000 in connection with registration. The bill provides that the Commission on Proprietary School and College Registration would

determine the amount required instead. Similarly, the bill would remove the specified amount for agents of the school or college. Currently, each agent must post a \$10,000 bond, or the school or college can post a blanket bond for all of its agents in the amount of \$10,000. The bill would not specify who would determine the bond amount for school agents.

**SB 2652: License Bond—Money Transmitters**

**INTRODUCED:** 01/18/2010

**STATUS:**

02/02/2010 From Senate Committee on Business and Financial Institutions: Do Pass with Substitute.

**POSITION:** Support—Advising on Availability Limitations

SB 2652 would change the amount of the license bond required for sellers of checks and it would reclassify them as money transmitters. Existing law requires a surety bond or other security in at least the amount of \$25,000 and an additional \$15,000 for each additional business location, which is capped at \$250,000. Instead, the bill would require a bond in the amount of \$25,000, or an amount equal to the amount of outstanding money transmissions in Mississippi. The bill would increase the cap on the bond amount to \$1 million. Further, based on the financial condition of the licensee, the Commissioner of Banking and Consumer Finance could require a bond in excess of \$1 million. Similar legislation failed in 2008, which had the same \$1 million cap. SFAA advised the bill sponsor on the availability limitations a \$1 million bond could create. The recent substitution did not impact the bonding provisions.

**MISSOURI**

**HB 1347: Release of Lien Bond**

**INTRODUCED:** 01/06/2010

**STATUS:**

01/06/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

HB 1347 would require anyone selling a unit within a planned community to either record or furnish the purchaser with releases of all liens on the property that the purchaser did not agree to assume. In lieu of that, the seller could post a release of lien surety bond, collateral, or purchase insurance against the lien.

**HB 1440: License Bond—Real Estate Appraisal Management Companies**

**INTRODUCED:** 01/06/2010

**STATUS:**

01/06/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity  
Seeking Amendments on Bond Amount

HB 1440 would regulate real estate appraisal management companies, requiring registration and a \$250,000 surety bond to secure the faithful performance of the registrant's duties for real estate appraising. A bonding or insurance company authorized to do business in the State would have to issue the bond. An irrevocable letter of credit would be accepted in lieu of the bond. SFAA is working with the bill sponsor on the bond amount and we have alerted the AIA and the local surety association about this bill.

**HB 1584/SB 630: Release of Lien Bond**

**INTRODUCED:** 01/12/2010

**STATUS:**

01/12/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

HB 1584/SB 630 would provide requirements for rental agreements between real property owners and manufactured homeowners. If the manufactured homeowner failed to pay the rent due on the real property on which the manufactured home was located, the real property owner could place a lien on the abandoned manufactured home. The homeowner would be able to post a release of lien bond in the form of a surety bond, cash or other security in an amount equal to the rental charges due and those that accrued during the proceedings concerning the rent owed. The bond would secure the payment of the rent if the manufactured homeowner did not prevail.

**HB 1636/SB 716/SB 781: License Bond—Special Event Motor Vehicle Auctions**

**INTRODUCED:** 01/13/2010

**STATUS:**

01/13/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

HB 1636/SB 716/SB 781 would regulate special event motor vehicle auctions which would take place over the course of three calendar days. The bill would require licensure to hold such an event and a \$100,000 surety bond or an irrevocable letter of credit. A separate license would be required for every event. The bond would be conditioned on compliance with the proposed law and it would indemnify against any losses resulting from the licensee's violation of these provisions. Of note, the bill would limit the surety's aggregate liability to the amount of the bond.

**HB 1641/SB 722: Public Officials**

**INTRODUCED:** 01/13/2010

**STATUS:**

01/13/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

HB 1641/SB 722 would establish the Missouri Universal Health Assurance Program (Program). The Executive Director of the Program's Board of Governors (Board) would be responsible for all funds, securities and property belonging to the Program and would have to post a corporate surety bond for the faithful handling of the Program's money as the Board requires.

**HB 1763: Debt Management Service Providers**

**INTRODUCED:** 01/21/2010

**STATUS:**

01/21/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

HB 1763 would enact the Uniform Debt Management Services Act of the National Conference of Commissioners of Uniform State Law. The bill would require debt-management service providers to post a \$50,000 surety bond. The Attorney General could increase or decrease the required amount of the bond based certain conditions of the licensee. Of note, the bill would require sureties to have an "A" rating from a nationally recognized rating service and licensed in the State. The bond would run to the State for the benefit of the State and individuals who enter

into agreements with the provider. The bond would have to be effect for an additional two years after the registrant stops performing debt-management services in Missouri. The bill would allow a certificate of insurance or a letter of credit in lieu of a surety bond. SFAA wrote a letter to the bill sponsor on the “A” rating requirement.

**SB 654: Miscellaneous Bond—Scholarship Organizations**

**INTRODUCED:** 01/06/2010

**STATUS:**

01/06/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

SB 654 is school choice measure for students with special needs. The bill would create a scholarship and tax credit program. Participating scholarship granting organizations that received \$50,000 or more in contributions would be required to demonstrate financial viability. The organization could post a surety bond with the Department of Economic Development in an amount equal to the aggregate amount of contributions expected to be received during the school year. Financial information demonstrating the organization's viability would be accepted in lieu of the bond.

**SB 689: Public Officials**

**INTRODUCED:** 01/06/2010

**STATUS:**

01/06/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

SB 689 would create the Missouri Clean Energy Technology Center (Center), whose officers and employees would have to post a surety bond if they have access to the Center's cash or negotiable securities. Blanket or scheduled bonds would be accepted to cover all those having to post the bond.

**SB 867: Statutory Liens against Real Estate**

**INTRODUCED:** 01/28/2010

**STATUS:**

01/28/2010 Introduced.

**POSITION:** Support

SB 867 provides for additional procedures in connection with a lien claim on real estate with respect to the appointment of a referee during the course of the claim. Currently, the referee serves as an impartial party who reviews the case's evidence and makes a report to the court. The bill provides procedures for filing an exception to the report and the award given to the lien claimant if he or she prevailed. The bill would require anyone filing an exception to an award in favor of the lien claimant to post a surety bond or a cash deposit in an amount equal to 150% of the judgment awarded to the prevailing lien claimant. The bond would have to remain in place until the court made a final judgment.

**NEBRASKA**

**◆ LB 579: Miscellaneous Bond—Professional Employer Organizations**

**INTRODUCED:** 01/21/2009

**STATUS:**

01/26/2010 Committee Amendment Adopted on Legislative Floor.  
Amendment: AM1323

01/26/2010 Amended on Legislative Floor. Amendment: AM1566

01/29/2010 Placed on Select File as Amended.

**POSITION:** Oppose—Adverse Selection

LB 579 would require Professional Employer Organizations (PEO) to maintain a positive working capital. If the PEO does not have a positive working capital, it would have to obtain a bond, letter of credit, or securities in an amount that would make up the deficiency plus an additional \$100,000. The bond would secure 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 bonds, surety bonds, employer's liability which is not covered by workers' compensation and employer's 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 past sessions.

**LB 722: Public Officials**

**INTRODUCED:** 01/06/2010

**STATUS:**

01/26/2010 From Legislative Committee on Government, Military and  
Veterans Affairs: Placed on General File as Amended.

01/29/2010 Committee Amendment Adopted on Legislative Floor.  
Amendment: AM1616

**POSITION:** Neutral

LB 722 would revise the existing bond requirements for all state employees. Current law requires all employees not specifically required to post a bond to be covered under a blanket surety bond or insurance policy in an amount not to exceed \$1 million. The bill would eliminate the specified amount and confer authority on the State's risk manager to determine the amount required.

**NEW HAMPSHIRE**

**◆HB 660: License Bond—Life Settlement Providers and Brokers**

**INTRODUCED:** 01/08/2009

**STATUS:**

11/24/2009 From House Committee on Commerce and Consumer  
Affairs: Ought to Pass with Amendment.

**POSITION:** Support—New Bonding Opportunity

HB 660 is the NAIC model act for life settlement providers and brokers. A license bond in the amount of \$250,000 would be required for providers and brokers. Surety bonds are among the financial instruments acceptable to fulfill this requirement.

**HB 1519 and HB 1622/SB 342: Miscellaneous Bond—Meals and Rentals Operators**

**INTRODUCED:** 01/06/2010

**STATUS:**

01/06/2010 Introduced.

**POSITION:** Oppose—Adverse Selection

HB 1519 would establish a "bond committee" to establish a scoring system for meals and rentals licensees to rate the risk of the nonpayment of any tax, interest, or penalties. The system would be based on the audit results history from the Department of Revenue (Department), history of timely tax payments, number of years the establishment has been in business, history of bounced checks or insufficient payment, and other relevant data as the bond committee deems necessary. Licensees with scores suggesting a risk of nonpayment under this system would have to post a \$5,000 surety bond to secure the payment of the tax, interest or penalties due. The bond would have to be from a surety company that the Insurance Department has authorized to do business in the State.

Currently, the law provides for a discretionary bond requirement that the Commissioner of Revenue Administration (Commissioner) may require, who also determines the amount required. This law will expire on January 1, 2010, and the new law effective on that same date will require a \$5,000 bond from all licensees to secure the payment of any taxes due. **HB 1622/SB 342** would repeal the new law that becomes effective on January 1, 2010.

**HB 1611: Tax Bond**

**INTRODUCED:** 01/06/2010

**STATUS:**

01/06/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

HB 1611 would establish a 2.25% retail sales and use tax. Vendors required to collect the proposed tax could be required to post a surety bond upon the determination of the Commissioner of the Department of Revenue and Administration (Commissioner). A hearing would have to be held to determine whether the bond would be required, and the Commissioner would decide the amount of the bond. The bond would secure the payment of any tax, interest, or penalties due, or which might become due. The term of the bond would be for one year. Surety companies licensed in the State to do business would have to issue the bond. The bill provides for cancellation of the bond with 60 days notice from the surety company.

**HB 1679: Tax Bond—Soft Drinks Tax**

**INTRODUCED:** 01/06/2010

**STATUS:**

01/06/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

HB 1679 would impose a tax on soft drinks and soft drink syrup. A tax stamp or tax crown would have to be placed on the original containers or bottles in which any bottled soft drink or syrup is placed, received, stored, or handled. Manufacturers and producers would be subject to the tax if they produce soft drinks or syrups in the State for sale in New Hampshire. Distributors and dealers would have to pay the tax if they bring soft drinks or syrups produced outside of New Hampshire into the State. The person first responsible for paying the tax would have to

place the tax stamp or crown on the container. The bill provides for the adoption of rules for the sale and distribution of the tax stamps or tax crowns. Manufacturers and distributors could be required to post a bond to ensure compliance with these rules. Further, the bill would permit the purchase of tax crowns on credit for the taxes due, if the person purchasing them posts a surety bond in an amount equal to at least 25% of the taxes due.

◆ **SB 56: Financial Assurance**

**INTRODUCED:** 01/08/2009

**STATUS:**

01/13/2010 Passed Senate. To House.

**POSITION:** Support—New Bonding Opportunity

SB 56 would require a demonstration of financial responsibility in connection with large withdrawals of groundwater. The amount required would have to be at least \$1 million, including "bonding and insurance." The financial instruments would be for environmental damages, including groundwater contamination and unreasonable reductions in well capacity.

**SB 367: Miscellaneous Bond—Gaming Operators**

**INTRODUCED:** 01/06/2010

**STATUS:**

01/06/2010 Introduced.

**POSITION:** Support—Advising on Availability Problems

SB 367 would require game operators that adopt an account wagering plan on any pari-mutuel pool to post a surety bond in an amount not to exceed \$300,000. The bond would be conditioned on the faithful payment of all prizes as prescribed in the bill. Existing law already requires a surety bond for the same amount conditioned on the operator's compliance with the law and the compensation of all persons the operator is obligated to pay. The bill also provides that this existing surety bond would have to cover the payment of unclaimed ticket money and vouchers.

**NEW JERSEY**

**AB 359: License Bond—Foreclosure Consultants**

**INTRODUCED:** 01/12/2010

**STATUS:**

01/12/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

AB 359 would regulate foreclosure consultants. The bill would require such consultants to post a surety bond in the amount that the Director of the Division of Consumer Affairs prescribed by regulations. Such consultants would not include banks, savings banks, savings and loan associations, credit unions, or other federally insured financial institutions, or insurance companies. Also exempted would be those licensed under the "New Jersey Licensed Lenders Act," and those licensed as a real estate broker, broker salesperson, or salesperson.

**AB 410: Release of Lien Bond**

**INTRODUCED:** 01/12/2010

**STATUS:**

01/12/2010 Introduced.

**POSITION:** Support

AB 410 would revise the construction lien law. For private property on which a lien is filed, current law provides that the property owner, contractor or subcontractor can post a surety bond for 110% of the lien amount claimed to discharge the lien. The bill would permit community associations to post this bond as well. Further, the bill provides that when the lien is filed in connection with a residential construction contract, the bond amount could not be greater than the "earned amount of the contract between the owner and the contractor as determined by [an] arbitrator." The bill also would provide mandatory language for a bond form for the discharge of a construction lien.

**AB 600: Developer's Bond—Completion of Common Elements**

**INTRODUCED:** 01/12/2010

**STATUS:**

01/12/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

AB 600 would require developers to post a bond or other acceptable guarantee with the Department of Community Affairs to secure the completion of the common elements of a planned community. The bill also would require the developer to maintain adequate reserve accounts for maintenance and replacement of the common elements. During the first year of operation, bond would have to be in the amount equal to the developer's annual budget. For the second year and for the succeeding years, the bond or other guarantee would have to be in amount equal to the annual budget plus the accumulated reserves of maintenance and repair fees that the developer collected.

**AB 715: Court Bond—Medical Malpractice Suits**

**INTRODUCED:** 01/12/2010

**STATUS:**

01/12/2010 Introduced.

**POSITION:** Support—Seeking Clarifying Amendments

AB 715 is a tort reform measure for medical malpractice actions. The bill would require that all actions alleging malpractice be mediated by a panel of five neutral mediators. The panel would have to evaluate the claim and give its decision to the attorney of each party and would have the ability to declare it a frivolous action. The panel also could declare the defense frivolous. If an action goes to trial after mediation, then the party with the frivolous action or defense would be required to post cash or surety bond in the amount of in the amount of \$10,000 for each party against whom the action or defense was determined to be frivolous. The court would have to approve the cash surety bond. The bill provides that if a judgment were to be entered against the party who posted the bond, then it would be used to pay all reasonable costs that the other party or parties had incurred in the frivolous action, as well as any costs allowed by law or by court rule, including court costs and reasonable attorneys' fees.

**AB 1125/SB 137: Court Bond—Release of Property for Accused Terrorists**

**INTRODUCED:** 01/12/2010

**STATUS:**

01/12/2010 Introduced.

**POSITION:** Neutral

AB 1125/SB 137 provides that a court, upon application by the Attorney General, would be able to issue an order attaching real property when there exists probable cause to believe that its owner has committed or is about to commit the crime of terrorism or soliciting or providing material support or resources for terrorism. A hearing could be held to contest the charges and the person would be required to post a bond or "other adequate surety" in order to get a release of the attachment on his or her property. The bill provides that the bond would have to guarantee that upon the defendant's conviction, adequate funds or assets would be available to pay complete restitution to victims of the alleged offense.

**AB 1341: Miscellaneous Bond**

**INTRODUCED:** 01/12/2010

**STATUS:**

01/12/2010 Introduced.

**POSITION:** Oppose—Adverse Selection

AB 1341 would authorize all municipalities to adopt ordinances to require landlords of tenants residing in structures containing four or fewer dwelling units to post a bond or other security, if the tenants have been repeatedly convicted for disorderly, indecent, tumultuous or riotous conduct. The bond could be used for the compensation of any future damage or expense the municipality or its residents may suffer from repetitions of such conduct by those tenants. Under existing law, only municipalities located in counties of the fifth and sixth class, which are those bordering the New Jersey shore to adopt such ordinances.

**AB 1423: License Bond—Construction Contractors**

**INTRODUCED:** 01/12/2010

**STATUS:**

01/12/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

AB 1423 would require all construction trade contractors to post a \$3,000 license bond in addition to any other bond that may be required by contract. A surety company licensed in the State would have to issue the bond, which also would have to be approved by the Department of Banking and Insurance. The bond would be conditioned on the faithful performance of the proposed law. The bill would prohibit municipalities from requiring any similar bond from any construction contractor licensed under the proposed law. The bill would authorize the proposed Construction Trades Licensing Board to promulgate rules and regulations concerning who would be eligible to receive financial protection under the bond.

The bill further provides that any contract entered into by an unlicensed contractor would be unenforceable. However, the bill states that this provision would not affect the obligation of a surety that had provided a bond to an unlicensed contractor, nor would it affect the affect the rights of other parties to enforce contract, lien, or bond remedies.

**AB 1719/SB 775: License Bond—Elevator Contractors**

**INTRODUCED:** 01/12/2010

**STATUS:**

01/12/2010 Introduced.

**POSTION:** Support—New Bonding Opportunity

AB 1719/SB 775 would require a \$3,000 license bond for elevator contractors. The bond would be conditioned on compliance with the proposed law. The bill would bar municipalities from requiring any similar bond from construction contractors licensed under the bill's provisions.

**SB 168: Captive Insurers**

**INTRODUCED:** 01/12/2010

**STATUS:**

01/12/2010 Introduced.

**POSITION:** Oppose

SB 168 would regulate captive insurance companies. Of note, the bill would permit captives to write fidelity and surety insurance, among other lines.

**SB 243: Fiduciary Bond—Uniform Trust Code**

**INTRODUCED:** 01/12/2010

**STATUS:**

01/12/2010 Introduced.

**POSITION:** Oppose—Seeking Amendments

SB 243 would adopt a new trust code based on the Uniform Trust Code of the National Conferences of Commissioners on Uniform State Laws (NCCUSL). The bill states that trustees would be required to furnish a bond to secure the performance of their duties only when the court or surrogate decides that it is necessary to protect the interests of the beneficiaries. A bond also could be required if it is in the terms of the trust and the court has not dispensed of this requirement. Even if the trustee resigns, any liability of the trustee or of the sureties on the bond for the acts and omissions of the trustee would not be discharged or affected by the trustee's resignation.

**SB 384/SB 392: License Bond—Tobacco Distributors**

**INTRODUCED:** 01/12/2010

**STATUS:**

01/12/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

SB 384/SB 392 would require tobacco distributors selling tobacco products at two or more places to obtain a separate license for each place of business and file surety bond in the amount of at least \$6,000, to run concurrently with the license period. The bond would guarantee the proper performance of duties and discharge of liabilities.

**SB 480: Caps on Appeal Bonds**

**INTRODUCED:** 01/12/2010

**STATUS:**

01/12/2010 Introduced.

**POSITION:** Oppose

SB 480 would cap the amount of the appeal bond required under existing law for civil actions to the total value of the monetary judgment or \$50 million, whichever is less.

## **NEW MEXICO**

### **HB 175: License Bond—Debt Management Services**

**INTRODUCED:** 01/26/2010

**STATUS:**

01/26/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

HB 175 would adopt the Uniform Debt Management Services Act of the National Conference of Commissioners of Uniform State Law. The bill would require debt management service providers to post a surety bond in the amount of \$50,000. The Director of the Financial Institutions Division could increase or decrease the required amount of the bond based on certain conditions of the licensee. Of note, the bill would require sureties to have an "A" rating from a nationally recognized rating service and licensed in the State. The bond would run to the State for its benefit and individuals who entered into agreements with the provider. The bond would have to be effect for an additional two years after the registrant stops performing debt management services in New Mexico. The bill would allow a certificate of insurance or a letter of credit in lieu of a surety bond. SFAA wrote a letter to the bill sponsor concerning the "A" rating requirement.

### **SB 138: License Bond—Appraisal Management Companies**

**INTRODUCED:** 01/21/2010

**STATUS:**

01/27/2010 From Senate Committee on Committees. Do Pass  
Germane.

**POSITION:** Support—New Bonding Opportunity

SB 138 would require real estate appraisal management companies to post a minimum \$25,000 surety bond or other security in connection with registration. The bond would secure the payment of any administrative or judicial penalties that the Real Estate Appraisers Board (Board) of the State imposed and any penalties or costs imposed under a disciplinary action from the Board. The bond also would have to indemnify any person damaged for any losses that resulted from the company's violation of the law or the Board's rules. The Board would determine the actual bond amount required through rules.

### **SB 183: Miscellaneous Surety Provisions—Domestic Partnerships**

**INTRODUCED:** 01/26/2010

**STATUS:**

01/27/2010 From Senate Committee on Committees. Do Pass  
Germane.

**POSITION:** Neutral

SB 183 would establish domestic partnerships in New Mexico. The bill would prohibit a domestic partner from obligating community property by entering into a contract of indemnity in which the domestic partner indemnifies a surety company for a default on a bond.

The bill also provides that a bond could be posted to remove liens placed on any real estate in connection with unpaid domestic partner or child support. The judge would decide whether the bond would be required. If posted, the bond would secure the payment of the domestic partner or child support.

## NEW YORK

### ◆ **Multiple Bills: Tax and Costs Bonds**

In recent years, New York has considered a number of bills that would 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 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.

**Hotel/Motel Occupancy Tax: AB 231/SB 1180** (Village of Rye Brook). **AB 231** was amended in the Assembly Committee on Ways and Means. **SB 1180** was amended in the Senate Committee on Investigations and Government Operations. The amendments did not impact these bonding requirements. **AB 9548/SB 6423** (Village of Tarrytown): Introduced. **SB 6651** (Town of Greenburgh): Introduced.

### ◆ **AB 3926: License Bond—Debt Collection Agencies License**

**INTRODUCED:** 01/29/2009

**STATUS:**

01/06/2010 Recalled from Senate. Returned to Assembly.

**POSITION:** Support—New Bonding Opportunity

AB 3926 would regulate debt collection agencies, requiring a surety bond, contract of indemnity, or an irrevocable letter of credit in connection with licensure that must be payable to the people of New York. The bond amount would be based on the number of persons employed by the licensee. A \$10,000 bond would have been required for one to four employees; a \$25,000 bond for five to nine employees and a \$50,000 bond for more than 10 employees.

### **AB 9415: Tax Bond—Beer Agents**

**INTRODUCED:** 01/06/2010

**STATUS:**

01/06/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

AB 9315 would provide for the use of tax stamps to mark the payment of the existing sales tax on beer. Beer agents would have to purchase these stamps and could either pay the tax as provided under existing law, or pay it at the time that the stamps are purchased. The Commissioner of Taxation and Finance (Commissioner) could require a surety bond or other security in connection with the prepayment of the tax. The Commissioner would determine the amount required.

### **AB 9471: Public Officials—Municipal Reciprocal Insurers**

**INTRODUCED:** 01/06/2010

**STATUS:**

01/06/2010 Introduced.

**POSITION:** Oppose

AB 9471 would permit statewide municipal reciprocal insurers to issue public official bonds.

Existing law allows such reciprocals to provide any one or more of the basic kinds of insurance except workers compensation, employers' liability, fidelity, surety, credit and marine and inland marine insurance. The bill essentially carves out an exception to the prohibition against writing surety and fidelity bonds. SFAA worked with AIA last year to defeat similar legislation, which would have permitted the New York Mutual Insurance Reciprocal (NYMIR) to write public official bonds. SFAA questioned how NYMIR would perform the prequalification function that makes surety bonding unique among insurance products.

**AB 9706/SB 6606: Retention of Workers' Compensation Self-Insurance Deposits**

**INTRODUCED:** 01/19/2010

**STATUS:**

01/19/2010 Introduced.

**POSITION:** Neutral

AB 9706/SB 6606 would revise the amount of time that the Chair of the Workers' Compensation Board (Chair) must hold a self-insurer's security deposit in the event of a termination. Current law requires group and individual self-insurers to post a surety bond or other security to secure their workers' compensation liabilities, and if the self-insurer is terminated, then the Chair must take custody of the security deposit for at least 26 months. The Chair can hold the security until he or she determines that the deposit can be released. The bill would eliminate the minimum time of 26 months and give the Chair full discretion for releasing the security deposit.

**AB 9710/SB 6610: Tax Bond—Natural Gas Producers**

**INTRODUCED:** 01/19/2010

**STATUS:**

01/19/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

AB 9710/SB 6610 would impose a 3% tax on natural gas extracted in the State that natural gas producers would have to pay. The bill would authorize the Commissioner of Taxation and Finance (Commissioner) to require the producer to post a surety bond or other security to secure the payment of the tax. The Commissioner would determine the amount required and he or she could increase the bond amount for a producer if deemed necessary.

**OHIO**

**◆ HB 216: Miscellaneous Bond—Professional Employer Organizations**

**INTRODUCED:** 06/09/2009

**STATUS:**

01/28/2010 In House. To Third Reading.

**POSITION:** Oppose—Adverse Selection

HB 216 would require Professional Employer Organizations (PEO) to maintain a positive working capital. If the PEO does not have a positive working capital, the bill would permit it to post a bond, letter of credit, or securities in an amount that would make up the deficiency. The bond would secure 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 bond would be in addition to the existing bonding requirements for PEOs under current law. The bill also contains provisions concerning employee coverage under insurance policies and bonds in

connection with an employer's participation in a PEO. This bill is based on model legislation that has been introduced and enacted in other states in the past few sessions.

◆ **SB 165/HB 426: Miscellaneous Bond—Inactive Oil and Gas Wells**

**INTRODUCED:** 09/01/2009

**STATUS:**

12/15/2009 Passed Senate. To House.

**POSITION:** Neutral

SB 165 would provide procedures for obtaining a temporary inactive status for an oil or gas well. Upon the third renewal of this status, a surety bond of not more than \$10,000 per inactive well would be required. Further, the rules provide for an additional bond to be required in connection with the forfeiture of bond required under existing law for oil and gas wells. Bonds are subject to forfeiture under current law for failures to properly restore or plug well according to the law's requirements, or for failure to meet the conditions of the permit. If the bond is forfeited, this bill provides that the person forfeiting the bond could be required to post a new surety bond in the amount of \$15,000 for a single well, \$30,000 for two wells and for \$50,000 for three or more wells. **HB 426** was recently introduced and it is identical to SB 165.

## **OKLAHOMA**

**HB 3106: License Bond—Debt Management Service Providers**

**PRE-FILED:** 01/15/2010

**STATUS:**

01/15/2010 Pre-filed.

**POSITION:** Support—New Bonding Opportunity  
Seeking Amendments on “A” Rating

HB 3106 would enact the Uniform Debt Management Services Act of the National Conference of Commissioners of Uniform State Law. The bill would require debt management service providers to post a surety bond in the amount of \$50,000. The Administrator of Consumer Affairs could increase or decrease the required amount of the bond based certain conditions of the licensee. Of note, the bill would require sureties to have an "A" rating from a nationally recognized rating service and licensed in the State. The bond would run to the State for the benefit of the state and individuals who enter into agreements with the provider. The bond would have to be effect for an additional two years after the registrant stops performing debt management services in Oklahoma. The bill would allow a certificate of insurance or a letter of credit in lieu of a surety bond. SFAA has written a letter to the bill sponsor concerning the “A” rating requirement.

**HB 3327/HB 3393: School Bond**

**PRE-FILED:** 01/15/2010

**STATUS:**

01/15/2010 Pre-filed.

**POSITION:** Support—New Bonding Opportunity

HB 3327/HB 3393 is a school choice measure for students that would provide scholarships for students with disabilities to attend private schools. The bill would require private schools participating in the program to show financial soundness with certified financial statements, a

surety bond or a letter of credit. The bond or letter of credit would have to be in an amount equal to the scholarship funds received for any quarter.

**SB 1903: Miscellaneous Bond—Home Service Contracts**

**PRE-FILED:** 01/13/2010  
**STATUS:**  
01/13/2010 Pre-filed  
**POSITION:** Support—New Bonding Opportunity

SB 1903 would regulate home service contracts. The bill would require the service contract provider to meet certain financial requirements, including posting a surety bond or other security. The bond would have to be in an amount not less than 5% of the gross premium received, less claims paid, on the sale of the service contract for all service contracts issued and in force in the State. The bond could not be less than \$25,000. A funded reserve account would be required in addition to the bond. In lieu of the bond and the reserve account, the service contract provider would have to maintain a net worth or stockholders' equity of \$25 million, either on its own or together with its parent company.

**SB 1946/SB 2180: License Bond—Roofing Contractors**

**PRE-FILED:** 01/14/2010  
**STATUS:**  
01/14/2010 Pre-filed.  
**POSITION:** Support—New Bonding Opportunity  
Seeking Amendments on Bond Amount

SB 1946 would regulate roofing contractors, requiring registration and a surety bond or an approved alternative in the amount of \$500,000. The bond or other security would be required as a demonstration of the contractor's "financial solvency." SB 2180 is similar, except that the bond would have to be for \$1 million, and the bill does not specify the bond's obligation.

**SB 2029: License Bond—Commercial Contractors**

**PRE-FILED:** 01/14/2010  
**STATUS:**  
01/14/2010 Pre-filed.  
**POSITION:** Support—New Bonding Opportunity  
Seeking Amendments on Bond Amount

SB 2029 would regulate commercial contractors, requiring licensure and a \$1 million surety bond or cash bond prior to performing any services or duties in the State related to commercial construction.

**SB 2030: License Bond—Residential Contractors**

**PRE-FILED:** 01/14/2010  
**STATUS:**  
01/14/2010 Pre-filed.  
**POSITION:** Support—New Bonding Opportunity  
Seeking Amendments on Bond Amount

SB 2030 would regulate residential contractors, requiring licensure and a \$1 million surety bond or cash bond prior to performing any services or duties in the State related to residential

construction. Further, for a violation of a final order from the Construction Industries Board (Board), the bill would impose penalties which could include jail time or a civil penalty. The contractor also would have to provide an additional surety bond or cash deposit in the amount of \$300,000. The bond would be "solely for actual damages suffered by persons injured as the direct result of conduct of a licensee in violation of this act or the rules of the Board."

## **PENNSYLVANIA**

### **HB 2213: Permit Bond—Oil & Gas Wells in the Marcellus Shale Formation**

**INTRODUCED:** 01/20/2010

**STATUS:**

01/20/2010            Introduced.

**POSITION:**            Pending Review

HB 2213 would increase the bond amount required in connection with a permit for oil and gas wells. Current law requires a bond in the amount of \$2,500 per well or a \$25,000 blanket bond that covers all wells that the permit holder operates in Pennsylvania. Instead, the bill would require the individual bond to be for \$150,000 per well for Marcellus Shale wells that use the hydraulic fracturing process for drilling, and \$12,000 per well for all other oil and gas wells. The blanket bond would have to be \$240,000 under the bill's provisions. (Marcellus shale is a black shale rock formation found in Pennsylvania and New York. The formation reportedly contains large reserves of natural gas.) SFAA has sent this to its Commercial Surety Advisory Committee for input on this requirement.

## **RHODE ISLAND**

### **HB 7063: License Bond—Alarm Service Businesses**

**INTRODUCED:** 01/12/2010

**STATUS:**

01/12/2010            Introduced.

**POSITION:**            Oppose—Repeals Bond Requirement

HB 7063 would repeal the current law concerning alarm service businesses in which a license bond is required. SFAA has asked AIA to oppose the repeal of this bond requirement and has reached out to the local surety associations to determine if the bond is widely available or whether there are problems with the bond form or other issues that make it unattractive to sureties.

### **HB 7255: Miscellaneous Bond—Charitable Organizations**

**INTRODUCED:** 01/28/2010

**STATUS:**

01/28/2010            Introduced.

**POSITION:**            Support

HB 7255 would subject "commercial co-venturers" to the existing law for professional fundraisers and solicitors for charitable organizations. The bill would define a "co-venturer" as a person who conducted, produced, promoted, underwrote, arranged or sponsored a performance, event, or sale to the public of a good or service for a profit or other commercial consideration that was done in conjunction with a charitable organization or benefiting any charitable purpose. The law requires registration and a \$10,000 surety bond.

## **SOUTH CAROLINA**

### **HB 4228: License Bond—Debt Collection Agencies**

**INTRODUCED:** 01/12/2010

**STATUS:**

01/12/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

HB 4228 would require debt collection agencies to post a license bond executed by a surety company licensed in the State. The amount of the bond would have been based on the total value of South Carolina accounts in possession of the licensee during the previous year. The bill provides a sliding scale that would range from \$15,000 to \$150,000. The bond would run concurrently with the license period in a continuous nature, but it also would have to remain in place for three years after revocation, denial, or failure to renew the license. The surety would be able to terminate or cancel the bond.

### **HB 4284: License Bond—Personal Property Recovery Agencies**

**INTRODUCED:** 01/12/2010

**STATUS:**

01/12/2010 Introduced.

**POSITION:** Support with Amendments to Address High Bond Amount

HB 4284 would require personal property 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. A \$10,000 rider or endorsement to the bond would have been required for each branch office. The bond would be conditioned on the faithful performance of the duties and obligations of the business. Direct actions on the bond would be permitted. There would be a three-year period for claims, starting from the date that the consumer discovered or reasonably should have discovered the violation.

### **SB 956: Court Bonds—Ejected Tenants**

**INTRODUCED:** 01/12/2010

**STATUS:**

01/12/2010 Introduced.

**POSITION:** Oppose—Adverse Selection

SB 956 would require tenants contesting ejectment from a rental property to post a bond conditioned for the payment of costs, damages, and lost rent that the landlord might sustain as a result of the trial. The bond must be in an amount at least equal to two month's rent. The magistrate ultimately would decide the amount required.

## **TENNESSEE**

### **HB 2697/SB 2634: License Bond**

**INTRODUCED:** 01/19/2010

**STATUS:**

01/19/2010 Introduced.

**POSITION:** Oppose—Repeals Bond Requirement

HB 2697/SB 2634 would repeal a 2008 law, which requires health clubs to post a bond in the amount of \$25,000 with the Department of Commerce and Insurance. The bond may be in the

form of a surety bond. Cash, a certificate of deposit, and securities also would be accepted. The bond must be maintained for two years following the club's ceasing to do business in the State. The law provides that the Attorney General has the right to request that the total amount of the bond be awarded to the State for consumer restitution.

However, the bill would leave a second law requiring health clubs to post a bond that also was enacted in 2008. That law requires health clubs to post a surety bond in the amount of \$25,000 with the Department of Commerce and Insurance. If the financial condition of the club is insufficient to cover its financial obligations, the bond may be increased up to \$200,000. The law permits the health club to sell memberships prior to its opening. Buyers are permitted to make direct claims on the bond if the club fails to open.

#### **SB 2741: School Bond**

**INTRODUCED:** 01/22/2010

**STATUS:**

01/22/2010            Introduced.

**POSITION:**            Support—New Bonding Opportunity

SB 2741 is a school choice measure for low-income students. Non-public schools participating in the program would be subject to financial requirements if they received more than \$50,000 in scholarship funds. To meet these requirements, the school could post a surety bond in an amount equal to the expected amount of scholarship funds to be received in the school year. In lieu of the bond, the school could provide certified financial statements that demonstrate that the school could pay the amount of the scholarships expected to be received during the school year.

### **UTAH**

#### **HB 98: Public Officials**

**INTRODUCED:** 01/25/2010

**STATUS:**

01/25/2010            Introduced.

**POSITION:**            Oppose—Repeals Bond Requirement

HB 98 would eliminate the bond requirement for the state engineer. Current law requires a \$5,000 bond to secure the faithful performance of the duties of office.

#### **SB 83: License Bond—Bail Bond Recovery Agents**

**INTRODUCED:** 01/25/2010

**STATUS:**

01/29/2010            Passed Senate. To House.

**POSITION:**            Support—New Bonding Opportunity

SB 83 would require bail recovery agents to post a \$10,000 license bond from a company licensed to transact surety and fidelity business in the State. The bond would be for the benefit of persons injured by the licensee and such persons could make direct claims on the bond.

### **VIRGINIA**

#### **HB 105: Appeal Bond**

**INTRODUCED:** 01/13/2010

**STATUS:**

01/28/2010 Passed House. To Senate

**POSITION:** Oppose—Reduces Bond Availability

HB 105 would allow any party in an appeal to request that the bond required for an appeal be issued by an insurance company that is authorized to write such bonds in the Commonwealth or by an insurance company or companies authorized to do business in the Commonwealth and rated "A+" or better by Best's Insurance Reports. SFAA is working with the AIA to amend this bill. We have suggested that the surety be a corporate surety licensed and in good standing with the Virginia Insurance Bureau instead.

**HB 206/SB 198: Aboveground Liquid Fertilizer Storage Tanks**

**INTRODUCED:** 01/13/2010

**STATUS:**

01/13/2010 Introduced.

**POSITION:** Neutral

HB 206/SB 198 would regulate aboveground liquid fertilizer storage tanks (ALFST). The bill would require each locality in which an ALFST is located to regulate the installation, operation, retrofitting, maintenance, repair, abandonment, and the removal of an ALFST in order to prevent discharges, and provide for the detection and remediation of a discharge should one occur. Each locality would have to establish requirements for evidence of financial responsibility to provide for corrective actions for property damage and bodily that resulted from a discharge from an ALFST. Surety bonds, among other financial instruments, would be accepted to fulfill this requirement.

**HB 414/SB 424: License Bond—Motor Vehicle Equity Lenders**

**INTRODUCED:** 01/13/2010

**STATUS:**

01/13/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

HB 414/SB 424 would regulate motor vehicle equity loans, which are fixed term, closed-end loans secured by an interest in a motor vehicle. Such lenders would have to be licensed and post a minimum \$50,000 surety bond. The Commissioner of Financial Institutions could require a larger bond amount. The bond would be conditioned on the performance of all written agreements with borrowers or prospective borrowers, correctly and accurately accounting for all funds received by him in his licensed business, and on compliance with the bill's provisions and all applicable laws. The bill would permit direct actions on the bond, but the surety's aggregate liability would be limited to the bond's penal sum.

**HB 1363/SB 375 and SB 606: License Bond—Motor Vehicle Title Lenders**

**INTRODUCED:** 01/22/2010

**STATUS:**

01/22/2010 Introduction.

**POSITION:** Support—New Bonding Opportunity

HB 1363/SB 375 would regulate motor vehicle title lenders, requiring licensure and a surety bond in the amount of \$50,000 per office, not to exceed \$500,000. The bond would be conditioned on the licensee performing all written agreements with borrowers or prospective

borrowers, correctly and accurately accounting for all funds received by the applicant or licensee in its licensed business, and compliance with all applicable laws in conducting his or her business. The bill would permit direct actions on the bond, but the surety's aggregate liability would be limited to the bond amount. **SB 606** is similar, except that the bond would have to be in the amount of \$10,000 per location, not to exceed \$50,000. SFAA and AIA are working to obtain a reasonable minimum bond amount.

**SB 250: License Bond—Credit Plan Lenders**

**INTRODUCED:** 01/13/2010

**STATUS:**

01/13/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

SB 250 would regulate open-end credit plan lenders, requiring a license and a \$10,000 surety bond for each location, not to exceed \$50,000. The bond would be conditioned on the licensee's performance of all written agreements with borrowers or prospective borrowers, correctly and accurately accounting for all funds received in the course of his or her business, and conducting his or her business in compliance with all applicable laws. The bill would permit direct actions on the bond, but the surety's aggregate liability would be limited to the penal sum of the bond.

**SB 649: School Bond**

**INTRODUCED:** 01/20/2010

**STATUS:**

01/20/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

SB 649 is a school choice measure for students with autism. Private schools would be required to demonstrate fiscal soundness in order to participate in a grant program. A surety bond or letter of credit in an amount equal to the grant funds for any one quarter would be a way to show financial strength.

**WASHINGTON**

**HB 2556: Financial Security Requirements**

**INTRODUCED:** 01/11/2010

**STATUS:**

01/28/2010 From House Committee on Agriculture and Natural Resources: Do Pass as Substituted.

**POSITION:** Oppose

HB 2556 would exempt grain dealers from the existing law's financial security requirements if they participate in the State's existing grain indemnity fund, and it would exempt warehouse license holders if they receive grain only from dealers who have obtained the required security. Existing law requires dealers to post a surety bond or other form of security in an amount ranging from \$50,000 to \$750,000. The recent substitution did not impact the bonding provisions.

**HB 2564/SB 6405: Escrow Agents**

**INTRODUCED:** 01/11/2010

**STATUS:**

01/19/2010

From House Committee on Financial Institutions and Insurance: Do Pass as Substituted.

**POSITION:**

Neutral

HB 2564/SB 6405 would revise the existing requirements for escrow agent bonds. Currently, escrow agents must obtain a \$200,000 fidelity bond that has a minimum \$10,000 deductible, a \$50,000 error and omissions insurance policy or a \$50,000 deposit of cash or securities, and a \$10,000 surety bond. HB 2564 also revises the coverage that would have to be provided under the fidelity bond. Under existing law, the fidelity bond currently covers any fraudulent or dishonest act of the escrow agent's employees or officers as defined in the bond. The bill instead would require the fidelity bond to cover the fraudulent or dishonest acts of the escrow agent's corporate officers, partners, sole practitioners, escrow officers, and employees of the applicant engaged in escrow transactions acting alone or in collusion with others. Under current law, the bond is for the sole benefit of the escrow agent and the surety is not liable under the bond to any other party. HB 2564 would provide instead that if a corporate officer, partner or sole practitioner commits the fraudulent or dishonest act, then the bond shall be for the benefit of the harmed consumer. We believe this provision substantially changes the nature of fidelity coverage and we do not think that a fidelity bond under these terms would be widely available.

The bill provides that if the fidelity bond coverage was not available, then a surety bond would be required. The bond would have to be in an amount that is "adequate to protect the public interest" according to the determination of the Director of Financial Institutions (Director). The Director would promulgate rules for the bond amount, which would have to be based on the average monthly balance of client trust funds that the agent handles. It could not be for less than \$25,000 or more than \$250,000. The bond would be conditioned on compliance with the law and the reimbursement of persons suffering a loss resulting from the licensee's violations of the law. The bill also provides for cancellation of the bond with 30 days notice from the surety, and the surety's aggregate liability would be limited to the penal sum of the bond. The recent substitution did not impact the bonding provisions in HB 2564. **SB 6405** passed out of committee in the Senate.

SFAA has written the bill sponsor a letter explaining the differences between surety and fidelity bonds and offered SFAA as a resource for addressing bonding questions regarding escrow agents.

**HB 2577/SB 6241: Administrative Appeal Bond**

**INTRODUCED:** 01/11/2010

**STATUS:**

01/11/2010

Introduced.

**POSITION:**

Support—New Bonding Opportunity

HB 2577/SB 6241 would create community facility districts for the financing of community improvements. The district board of supervisors (board) would be able to charge assessments on private landowners to pay for the district's activities. To appeal a decision that the board had made concerning an assessment, a \$200 surety bond would be required when filing the notice.

The court could require an additional bond or bonds as necessary. **SB 6241** has not moved since it was introduced.

**HB 2608/SB 6406: License Bond—Residential Mortgage Loan Servicers and Services**

**INTRODUCED:** 01/11/2010

**STATUS:**

01/19/2010 From House Committee on Financial Institutions and Insurance: Do Pass.

**POSITION:** Support—New Bonding Opportunity

HB 2608 would regulate mortgage loan servicers, subjecting them to the existing licensing requirements for other mortgage loan professionals and the existing bond requirements. For servicers, the bond would have to be in a minimum amount of \$30,000 based on the annual dollar amount of loans serviced. **SB 3406** has not moved since it was introduced.

**HB 2636/SB 6371: License Bond—Money Transmitters**

**INTRODUCED:** 01/11/2010

**STATUS:**

01/21/2010 From House Committee on Financial Institutions and Insurance: Do Pass as Substituted.

**POSITION:** Support

HB 2636/SB 6371 would revise the amount of the license bond required under existing law for money transmitters. Current law requires a bond in a minimum base amount of \$10,000 and not to exceed \$50,000, plus \$10,000 per location. The total bond amount cannot exceed \$500,000. The bill provides that the amount of the bond would be based on the dollar volume of the prior year's money transmissions and the dollar volume of the prior year's payment instruments. The minimum amount still would be \$10,000, but the maximum bond amount would be \$550,000 under the bill's provisions. The recent substitution did not impact the bonding provisions in HB 2636. **SB 6371** has passed out of committee in the Senate.

**HB 2879/SB 6799: Workers' Compensation**

**INTRODUCED:** 01/15/2010

**STATUS:**

01/15/2010 Introduced.

**POSTION:** Support

HB 2879 would create a commission to privatize industrial insurance and promote self-insurance for workers' compensation plans.

**HB 3040: License Bond—Appraisal Management Companies**

**INTRODUCED:** 01/21/2010

**STATUS:**

01/21/2010 Introduced.

**POSITION:** Support—Seeking Technical Amendments

HB 3040 would require appraisal management companies to be licensed and post a surety bond in a minimum amount of \$30,000. The bond would have to be from a surety company authorized to do surety business in the State and the aggregate liability of the surety could not exceed the bond's penal sum. The bond would be conditioned on the licensee's compliance with the

applicable laws and rules. The bill appears to have a drafting error in that it would require the bond amount to be based on the licensee's "annual dollar amount of loans originated." SFAA staff believes that the bonding provisions likely were borrowed from the laws regulating mortgage professionals, which base the bond amount on loan originations. Of note, the bill would permit the licensed to "maintain unimpaired capital, surplus, and long-term subordinated debt" in lieu of a surety bond.

**SB 6732: Insolvent Self-Insurers**

**INTRODUCED:** 01/25/2010

**STATUS:**

01/25/2010 Introduced.

**POSITION:** Neutral

SB 6732 provides that if the surety funds were not sufficient for insolvent self-insurers to cover their pension liabilities, then the State's insolvency fund would pay the remainder of the employer's pension reserve.

**WISCONSIN**

**AB 687/SB 472: Uniform Commercial Code**

**INTRODUCED:** 01/25/2010

**STATUS:**

01/25/2010 Introduced.

**POSITION:** Oppose

AB 672/SB 472 would amend Wisconsin's Uniform Commercial Code to conform to the Restatement of the Law of Surety by the American Law Institute. Among the several revisions, a surety would be further defined to include any "other secondary obligor" in addition to the existing definition as a "guarantor."

**◆ SB 242: Financial Assurance—Future Service Contract Requirements**

**INTRODUCED:** 07/23/2009

**STATUS:**

01/21/2010 To Governor.

**POSITION:** Support—New Bonding Opportunity

SB 242 would require contractors to post a \$250,000 surety bond if they enter into a "future service contract." Such contracts would have a term not to exceed three years, and the bill provides for mandatory consumer protections that the contract would have to contain with respect to service cancellation. The bond for these contracts would be in favor of the State for the benefit of consumers suffering losses resulting from the contractor's failure to make a required refund under the contract.

**WEST VIRGINIA**

**HB 2479: License Bond—Private Investigators and Security Guards**

**INTRODUCED:** 01/13/2010

**STATUS:**

01/13/2010 Introduced.

**POSITION:** Support

HB 2479 would increase the amount of the license bond for security guards and security guard firms from \$2,500 to \$20,000. Existing law requires a surety bond conditioned on compliance from a state licensed insurance company. Direct actions are permitted under current law, but the surety's aggregate liability is limited to the penal sum of the bond.

**HB 3023: Miscellaneous Bond—Landowner Agreements for Oil and Gas Wells**

**INTRODUCED:** 01/13/2010

**STATUS:**

01/13/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

HB 3023 would permit a surety bond or letter of credit to be posted in the amount of \$20,000 per well location for oil and gas exploration activities in lieu of a surface use agreement between the landowner and the operator if no such agreement is submitted with the permit application for the oil and gas lease.

**HB 3137: School Bond**

**INTRODUCED:** 01/13/2010

**STATUS:**

01/13/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

HB 3137 is a school choice measure that would provide scholarships to special needs students to attend the school of their choosing. The bill provides that non-public schools receiving more than \$50,000 in scholarship funds would have to post a surety bond in an amount equal to the aggregate amount of scholarship funds to be paid to students admitted to the school to demonstrate their financial viability. Financial statements showing an ability to repay the funds received would have been accepted in lieu of the bond.

**HB 3320: Miscellaneous Bond—Scholarship Organizations**

**INTRODUCED:** 01/13/2010

**STATUS:**

01/13/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

HB 3320 is a school choice measure that would provide scholarships funds to low income students to attend any school of their choosing in the State. Scholarship granting organizations receiving \$50,000 or more of contributions in connection with this program would have to demonstrate their financial viability by posting a surety bond in an amount equal to the aggregate scholarship funds expected to be received during the school year, or by filing financial information with the State Department of Revenue.

**HB 4196: License Bond—Mixed Martial Arts Events Promoters**

**INTRODUCED:** 01/27/2010

**STATUS:**

01/27/2010 Introduced.

**POSITION:** Support

HB 4196 would rewrite the current law concerning the State Athletic Commission (Commission) and its authority over boxing matches. The bill also would regulate mixed martial arts and tough

man contests. Current law provides that a club, corporation, association or individual conducting, holding or giving any boxing or sparring match or exhibition must post a surety bond in an amount that the Commission determines. The bond is required as a condition of licensure to hold boxing and sparring matches and exhibitions, and it must cover all purses, awards and payments that the promoter must pay. The bill provides that the promoter would have to post a surety bond in an amount not less than \$100,000 in connection with licensure for promoting boxing, mixed martial arts and tough man contests.

**SB 57: Miscellaneous Bond—Damages to the Right-of-Way**

**INTRODUCED:** 01/13/2010

**STATUS:**

01/13/2010 Introduced.

**POSITION:** Support with Amendments on Adverse Selection

SB 57 would impose a surety bond requirement on timber operations failing to repair any damages to the right-of-way or any public or private road that occurred in the course of the timber operations.

**SB 205: Miscellaneous Bond—Pre-need Cemetery Contracts**

**INTRODUCED:** 01/13/2010

**STATUS:**

01/13/2010 Introduced.

**POSITION:** Support—New Bonding Opportunity

SB 205 would regulate private cemeteries, requiring licensure and compliance with certain financial requirements. Cemetery companies receiving payments for pre-need contracts for the sale of personal property or services to be used in a cemetery would have to deposit an amount equal to 60% of the proceeds into a trust fund. In lieu of the deposits, the cemetery company could post a performance bond from a surety company licensed to do business in the State. The bond would have to be in an amount sufficient to cover all payments for the pre-need contracts.

**WYOMING**

**HB 17: Financial Assurance—Carbon Sequestration**

**PRE-FILED:** 12/29/2009

**STATUS:**

12/29/2009 Pre-filed.

**POSITION:** Neutral

HB 17 would provide for the geologic sequestration of carbon dioxide (CO<sub>2</sub>). The bill provides that an insurance policy and a form of financial assurance and bonding would be required in connection with a permit for a sequestration facility. The bond would have to secure the facility operator's compliance with the applicable laws and rules and that he or she will provide adequate financial resources for any mitigation or reclamation costs that the State incurred if the permit holder defaulted on his or her obligations. The law provides that the bond could be "forfeited" to pay for closure, mitigation, reclamation, measurement, monitoring, verification, and pollution control.

**HB 42: License Bond—Collection Agencies**

**PRE-FILED:** 01/22/2010

**STATUS:**

01/22/2010 Pre-filed.

**POSITION:** Support

HB 42 would revise the existing law for debt collection agencies. Current law requires a \$10,000 license bond conditioned on the payment of the amounts that the agency collects to the claimant. The bill would require a surety bond or other security for \$25,000 plus \$5,000 for each licensed office and it would add a forfeiture requirement. The bond would have to be forfeited to the State for the benefit of a person suffering damages resulting from the agency's violation of the applicable law and regulations under the bill's provisions.