

THE SURETY & FIDELITY ASSOCIATION OF AMERICA

MEMORANDUM

TO: Government Affairs Advisory Committee
FROM: Daniel Wanke
RE: Fidelity Bond Legislation
DATE: February 9, 2016

There are 42 states and the District of Columbia in session. In all states except New Jersey and Virginia, the 20156 sessions are the second year of a two-year session. The following report compiles and summarizes the fidelity bond legislation that SFAA is tracking as of February 1, 2016. For additional information on how SFAA is addressing these bills, as necessary, with the AIA, the local surety associations and other interested parties, please visit the Government Relations page of the SFAA website at www.surety.org.

Jurisdiction	Bill(s)	Recent History	Issue	SFAA Summary
FL	SB 1106/ HB 1383	01/12/2016 SB 1106/ HB 1383 have been introduced.	Fidelity Bond– Trust Company	SB 1106/HB 1383 would require limited purpose international trust company representative offices to register and furnish a fidelity bond. These offices are located in the United States and provide non-fiduciary services on behalf of international banking or trust companies. The bond would have to be for at least \$500,000 and would have to indemnify the company against loss because of a dishonest, fraudulent, or criminal act or an omission on the part of its officers, directors, managers, members acting in a managerial capacity, and employees. The bond would secure the faithful performance of the office’s obligations regarding the receipt, handling, and transmission of information and documents provided to it. The bill would permit direct

				actions on the bond, but its aggregate liability could not exceed the bond amount. The insurer could cancel the bond with 30 days' notice to the office. (01/13)
HI	HB 2715	01/27/2016 HB 2715 has been introduced.	Fidelity Bond— Public Official	HB 2715 would create the State Workers' Compensation Insurance Company and would require employers to obtain workers' compensation coverage only from this company or be self-insured. The board of directors for the company would have to obtain a fidelity bond for the company's administrator. The board also could obtain a fidelity bond for agents dealing with the company's assets. The State Workers' Compensation Insurance Company would replace the Hawaii Employers' Mutual Insurance Company. (02/01)
KY	HB 180	01/06/2016 HB 180 has been introduced.	Fidelity Bond— Ban the Box	HB 180 would prohibit employers from considering or requiring disclosure of a job applicant's criminal record or history until the first interview or if there is a conditional offer of employment. Among the exceptions to this, the employer could inquire about the applicant's criminal record or history if the position requires the applicant to obtain a fidelity bond and a conviction would disqualify him or her from obtaining it. (01/08)
MO	SB 935	01/20/2016 SB 935 has been introduced.	Fidelity Insurance— Homeowners' Associations	SB 935 would require homeowners' associations to obtain several kinds of insurance, including fidelity insurance covering the association and any person with access to association funds, including any managing agent. The bill establishes a new regulatory scheme for such associations. (01/21)
MO	HB 2361	01/25/2016 HB 2361 has been introduced.	Fidelity Insurance— Homeowners' Associations	HB 2631 would require homeowners' associations to obtain fidelity insurance that covers the association and any person with access to its funds, including any managing agent. (01/26)
NH	HB 1108	01/21/2016 HB 1108 was scheduled to be heard in committee in the House on 02/02/2016.	Fidelity Bond— Ban the Box	HB 1108 would prohibit employers from inquiring on a job application or orally if an applicant has been arrested for, charged with, or convicted of any crime. The bill would make an exception to this if the position is for law enforcement, requires the applicant to obtain a fidelity bond for the job and the conviction of a crime would disqualify the applicant from obtaining the required bond, or if by law, the applicant's criminal history would result automatic disqualification from employment. (01/07)

NJ	SB 388	01/12/2016 SB 388 has been introduced.	Fidelity Bond— Exchange Facilitators	SB 388 would regulate exchange facilitators, which are those who facilitate like kind exchanges of property pursuant to federal tax law. The bill would require such persons to be licensed and to obtain a fidelity bond in an amount not less than \$1 million or post cash, securities or a letter of credit in an equal amount. The bill would permit direct actions on the bond. (01/19)
WA	HB 2916	01/27/2016 HB 2916 was scheduled for a hearing in committee in the House on 02/03/2016 and has not moved since then.	Fidelity Bond— Exchange Facilitators	<p>HB 2916 would revise the bond requirements for exchange facilitators, which are those who facilitate like kind exchanges of property pursuant to federal tax law. These persons must be licensed and to obtain a fidelity bond in an amount not less than \$1 million. The bill would delete a requirement for the fidelity bond to cover owners of a non-publicly traded exchange facilitators. The bond would have to cover any person that the facilitator employed or engaged for any fraudulent acts that they commit. The bond would have to be for the facilitator's sole benefit and the bonding company would not be liable to any other party unless the corporate officer, partner, or sole practitioner commits a fraudulent or dishonest act, in which case, the bond is for the benefit of the harmed consumer. The bond would have to remain in place until all accounts have been reconciled and the trust account balance is zero. The bonding company could cancel the fidelity bond with 30 days' notice. The bill also would add a \$10,000 deductible requirement to the fidelity bond.</p> <p>The facilitator also would have to post a \$10,000 surety bond, unless the fidelity bond does not have a deductible. The bond would be conditioned on the facilitator's compliance with the applicable laws and regulations. The surety could give 30 days' notice to cancel the bond. The surety's aggregate liability would be limited to the bond amount. The bond would not be liable for any penalties imposed on the licensee including, but not limited to, any increased damages or attorneys' fees, or both, awarded in a civil action. (01/28)</p>
WV	HB 4231	01/22/2016 HB 4231 has been introduced.	Fidelity Insurance— Homeowners' Associations	HB 4231 would revise the current law's insurance requirements for unit owners associations to require them to obtain fidelity insurance. (01/25)