

THE SURETY & FIDELITY ASSOCIATION OF AMERICA

MEMORANDUM

TO: Government Affairs Advisory Committee

FROM: Daniel Wanke

RE: Fidelity Bond Legislation

DATE: March 6, 2015

There are 48 states and the District of Columbia in session. In all states except New Jersey and Virginia, the 2015 sessions are the start of a new two-year session. The following report compiles and summarizes pre-filed and introduced fidelity bond legislation that SFAA is tracking as of March 6, 2015. 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
CA	AB 607	02/25/2015 AB 697 has been introduced.	Fidelity Bond— Brokers	AB 607 would permit unlicensed employees of real estate brokers to withdraw funds from the trust account required by law for holding any funds the broker receives for a transaction if the broker obtains a fidelity bond in an amount equal to at least the maximum amount of the trust funds to which the unlicensed employee would have access to at any time. The bill would allow the fidelity bond to have a deductible for 5% of the bond amount. The Real Estate Commissioner would be authorized to require the broker to provide additional financial responsibility that is sufficient to protect the public against a loss, subject to the deductible amount, if any. (03/03)

CT	HB 6875	02/27/2015 HB 6875 was scheduled for a hearing on 03/05 in the Joint Committee on Labor And Public Employees, but it has not moved since then.	Ban the Box Background Checks	HB 6875 would revise the existing law to prohibit an employer or its agent, representative or designee from requiring an employee or prospective employee to complete employment application forms that contain a question on the person's criminal history or any arrest, charge, or conviction if the records have not been erased. The employer also could not ask questions on the forms about any nonviolent misdemeanor where the arrest, criminal charge or conviction occurred less than five years ago until it is determined that the applicant is otherwise qualified for the position. The applicant could not be denied employment solely for such misdemeanors nor could existing employees be discharged solely for this reason.
IA	SB 84	01/28/2015 SB 84 has been introduced.	Ban the Box Background Checks	SB 84 would prohibit an employer or employment agency from inquiring, considering, or requiring disclosure of the criminal record or criminal history of an applicant until he or she has been determined to be qualified and notified of an interview, or a conditional offer has been made. The bill would make an exception to this if the position requires the applicant to obtain a fidelity bond in connection with the job and the conviction of one or more criminal offenses would disqualify the applicant from obtaining the bond. The bill also would permit employers to inquire about an applicant's criminal history if they are required to exclude applicants with criminal convictions from employment due to federal or state law. (01/2
IL	HB 3538	02/26/2015 HB 3538 has been introduced.	Fidelity Bond—Poker Runs	HB 3538 would eliminate the fidelity bond requirement for poker runs. The law requires the manager of the poker run to obtain a fidelity bond in an amount that the licensing authority determines. The bond must be in favor of the organization and is conditioned on the manager's honesty in the performance of his or her duties. (02/27)
KS	SB 240	02/26/2015 SB 340 passed the Senate.	Fidelity Bond—Financial Institutions	SB 240 would revise the insurance and bonding requirements for banks that accept customer deposits by repealing the blanket fidelity bond requirement for banks that do not insure their deposits through the Federal Deposit Insurance Corporation (FDIC) and insure their deposits through a private insurer. The law requires the bond to cover the bank's officers and employees in an amount of not less than 100% of the average total amount of all deposits in the bank. The bill would eliminate the option to insure deposits with a private insurer and would mandate that state banks insure their deposits through the FDIC. The bill

				would allow state banks to post a surety bond to insure the amount of their deposits that are in excess of the FDIC's coverage limit. (02/26)
KY	HB 531	02/24/2015 HB 531 has been introduced.	Fidelity Bond—Community Associations	HB 531 would require the board of directors for a planned community association to purchase directors' and officers' insurance and fidelity bonds that the board members consider appropriate and necessary. (02/26)
MT	SB 53	03/05/2015 SB 53 is scheduled for a hearing in the House Business and Labor Committee.	Fidelity Bond—Financial Institutions	SB 53 would revise the requirements of the members of the board of directors for a credit union to eliminate an option granted under current law to provide the blanket fidelity bond coverage required under current law only for its treasurer that otherwise is required to cover the credit union's directors, officers, employees, members of an official committee, or other agents. (01/31)
OK	SB 275	02/03/2015 SB 275 has been introduced.	Ban the Box Background Checks	SB 275 would prohibit an employer or employment agency from inquiring, considering, or requiring disclosure of the criminal record or criminal history of an applicant until he or she has been determined to be qualified and notified of an interview, or a conditional offer has been made. The bill would make an exception to this if the position requires the applicant to obtain a fidelity bond in connection with the job and the conviction of one or more criminal offenses would disqualify the applicant from obtaining the bond. The bill also would permit employers to inquire about an applicant's criminal history if they are required to exclude applicants with criminal convictions from employment due to federal or state law. (01/21)
OK	SB 636	02/03/2015 SB 636 has been introduced.	Fidelity Bond—Vision Plan Providers	SB 636 would require vision plan organizations, which operate prepaid or reimbursement vision plans, to be licensed and obtain a \$50,000 fidelity bond for each officer responsible for conducting the business affairs of the organization. (01/23)
OR	SB 1	02/27/2015 SB has been sent to the Governor.	Fidelity Bond—Public Official	SB 1 would eliminate the Oregon Health Insurance Exchange Corporation whose executive director must furnish a fidelity bond. With the elimination of this corporation and its officials, the bond requirement would be eliminated as well. (02/18)

PA	SB 431	02/12/2015 SB 431 has been introduced.	Ban the Box Background Checks	SB 431 would prohibit an employer or employment agency from inquiring, considering, or requiring disclosure of the criminal record or criminal history of an applicant until he or she has been determined to be qualified and notified of an interview, or a conditional offer has been made. The bill would make an exception to this if the position requires the applicant to obtain a fidelity bond in connection with the job and the conviction of one or more criminal offenses would disqualify the applicant from obtaining the bond. The bill also would permit employers to inquire about an applicant's criminal history if they are required to exclude applicants with criminal convictions from employment due to federal or state law. (02/16)
SD	HB 1055	02/27/2015 HB 1055 has been sent to the Governor.	Public Official Bond	HB 1055 repeals several laws for the Department of Agriculture, including the bond requirement for the Secretary of Agriculture and the fidelity bond requirement for the Executive Director and the treasurer of the Wheat Commission. (02/28)
UT	HB 24	03/04/2015 HB 24 is to the third reading in the Senate.	Fidelity Bond—Statute of Limitations	HB 24 would revise the statute of limitations for making claims on the fidelity bonds to specify that the current three-year statute of limitations for insurance policies would run from the date the insurer first denies all or part of a claim made under a fidelity bond. The proposed change is the result of the claims handling process in recent litigation involving fidelity bonds for credit unions.(02/26)
WA	SB 5263	02/04/2015 SB 5263 was scheduled for hearing in the Senate Committee on Financial Institutions & Insurance, but it has not moved since then.	Fidelity Bond—Community Associations	SB 5263 would regulate unit owners associations for common interest communities. The association would be required to obtain fidelity insurance among the required types of insurance that it would have to maintain. (01/17)

WA	SB 5321	02/19/2015 SB 5321 is to the second reading in the Senate following passage from the Senate Committee on Financial Institutions & Insurance.	License Bond—Debt Settlement Services Providers	SB 5321, as substituted, would require a debt settlement services provider that receives and holds customer funds to obtain a \$150,000 fidelity bond with a \$10,000 deductible and a \$10,000 surety bond, unless the fidelity bond does not have a deductible. If the provider does not receive or hold a customer's funds, the provider would have to post a \$50,000 surety bond and no fidelity bond would be required. The surety bond would be conditioned on compliance with the law and the reimbursement of persons suffering losses due to the provider's violation of a law or regulation. The surety's aggregate liability would be limited to the bond amount. The surety could cancel the bond with 30 days' notice. As introduced, the provider would have been required to obtain an aggregate umbrella insurance policy or a minimum \$10,000 surety bond. (02/20)
WV	HB 2430	01/27/2015 HB 2430 has been introduced.	Fidelity Insurance—Community Associations	HB 2430 would revise the existing law for common interest communities to require the unit owners association for the community to obtain fidelity insurance. (01/28)
WY	HB 61	03/02/2015 HB 61 has been enacted.	Fidelity Bond—Financial Institutions	HB 61 regulates chartered family trust companies. The new law requires directors or managers of a chartered family trust company to obtain fidelity bonds in an amount not less than \$1 million on any of the company's active officers, managers, members acting in a managerial capacity, and employees. The bond indemnifies the company against loss because of any dishonest, fraudulent or criminal act or omission by any of these persons. (02/26)