

**THE SURETY & FIDELITY ASSOCIATION OF AMERICA**

**MEMORANDUM**

**TO:** Government Affairs Advisory Committee

**FROM:** Daniel Wanke

**RE:** Fidelity Bond Legislation

**DATE:** May 15, 2015

---

There are 24 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 introduced fidelity bond legislation that SFAA is tracking as May 15, 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](http://www.surety.org).

<b>Jurisdiction</b>	<b>Bill(s)</b>	<b>Recent History</b>	<b>Issue</b>	<b>SFAA Summary</b>
AL	HB 241/ SB 418	05/14/2015 HB 241 is pending in the Senate Judiciary Committee.  05/07/2015 SB 418 is pending in the Senate Fiscal Responsibility and Economic Development Committee.	Fidelity Bond— Homeowners Associations	HB 241/SB 418 would establish requirements for homeowners associations. The organizational documents for the association would have to provide for fidelity bonds for any person or entity who has custody or control of the association's funds. (05/15)

AL	SB 358	04/09/2015 SB 358 has been introduced.	Fidelity Bond— Ban the Box	SB 358 would prohibit an employer or employment agency from including a question in a job application or from inquiring either orally or in writing whether the applicant has ever been arrested, charged with, or convicted of any crime. 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. (04/13)
CA	AB 607	05/07/2015 AB 607 passed the Assembly.	Fidelity Bond— Real Estate 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 broker would be required to provide additional financial responsibility that is sufficient to protect the public against a loss, subject to the deductible amount, if any. A separate fidelity bond or other security in an amount equal to the deductible could be used to meet this requirement. (04/25)
CT	HB 6875	04/21/2015 HB 6875 has been reported from the Legislative Commissioner's Office in the House.	Fidelity Bond— Ban the Box	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 to disclose 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. (04/22)
IL	HB 3538	04/21/2015 HB 3538 passed the House.	Fidelity Bonds— 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. (04/22)

KS	SB 240	04/29/2015 SB 240 has been enacted.	Depository Bonds	SB 240 revises 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. Prior law required 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 new law eliminates the option to insure deposits with a private insurer and mandates that state banks insure their deposits through the FDIC. State banks now may post a surety bond to insure the amount of their deposits that are in excess of the FDIC's coverage limit. (04/17)
NC	HB 514/ SB 563	04/02/2015 HB 514/SB 563 have been introduced.	Fidelity Bond— Community Association Managers	<p>HB 514/SB 563 would require community association managers to be covered by a fidelity bond or insurance policy in an amount not to exceed \$2 million. The bond would have to cover the manager and all of its employees engaged in accounting related to the association's funds and would have to protect such funds that are in the manager or its employees' custody. The company issued the bond could cancel the bond with 30 days' written notice, or with 10 days' notice in the case of non-payment of premium.</p> <p>The bill also would require private community association managers schools to be licensed and post a \$5,000 surety bond conditioned on compliance with the applicable laws, the fulfillment of the school's agreements with its students for providing instruction, and the refund of any tuition or fees for failing to provide instruction. (04/02)</p>
NC	HB 731	04/15/2015 HB 731 has been introduced.	Fidelity Bond— Community and Unit Owners Associations	HB 731 would require managers for a planned community or unit owners association to be covered by a fidelity bond in an amount at least equal to the annual budgets of all of their clients, but not to exceed \$2 million. The bond would have to cover the manager and its employees engaged in accounting for the association's funds and would have to protect the funds the manager or its employees' custody. The company that issued the bond could cancel the bond with 30 days' written notice, or with 10 days' notice in the case of non-payment of premium. Any planned community or unit owners' association with annual assessments for common expenses of \$100,000 or more would have to obtain a fidelity bond equal to the unit owners' association annual operating budget, but not more than \$1 million. The bond would have to insure the

				association against losses resulting from theft or dishonesty that the officers and members of its executive board or its employees committed. (04/15)
NC	HB 882	04/15/2015 HB 882 has been introduced.	Fidelity Bond— Community Association Managers	HB 882 would community association property managers to be covered by a fidelity bond or an insurance policy in an amount equal to at least \$20,000. The bond would have to cover the manager and its employees, as well as the community association's funds in the manager's custody. The bond could be cancelled with 30 day's written notice, or 10 day day's written notice in the case of nonpayment of premiums. (04/15)
NH	SB 57	05/13/2015 SB 57 has been scheduled for executive session in the House Commerce and Consumer Affairs Committee on 05/19/2015.	Fidelity Bond— Unit Owners Associations	SB 57 would require a unit owners' association to maintain insurance or a fidelity bond for all persons who control or disburse funds for the association. The insurance policy or fidelity bond would have to cover the maximum funds that will be in the custody of the association or its management agent at any one time. (05/15)