

## MEMO

TO: NAIS Members

FROM: Bill Peterson (CNA Surety), Chair, Legislative Affairs Committee

DATE: April 4, 2003

SUBJECT: NAIS Semi-Annual Legislative Report – Spring 2003

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We are very pleased to present the Spring 2003 Legislative Report to the National Association of Independent Sureties.

We are off to a very strong start in 2003 with legislative successes to report in a number of areas. We are also pleased to report there have been very few threats to any of our major products so far this year. This is a very positive trend which we hope will continue throughout the remainder of the year.

The following will briefly review some of the major developments which have occurred to date.

### **NOTARY BONDS**

We are pleased to report that no efforts have been made to eliminate any notary bond requirements in the 30 states that currently require them. New Mexico raised the penalty amount of their bond requirement to \$10,000, and Nebraska is considering increasing theirs to \$25,000. This is in keeping with the recommendation of the Model Notary Act which was recently updated by the National Notary Association, an association composed of and for notary publics in the United States. There is also some interest in North Carolina in developing a notary bond requirement. As of yet, this interest has not developed into specific legislation, but we are encouraging the North Carolina Secretary of State's office to consider it.

### **MOTOR VEHICLE DEALER BONDS**

We are pleased to report that Virginia, the one state in the nation that has a motor vehicle dealer recovery fund, recently passed legislation which would allow a bond to be used in lieu of participation in the recovery fund. We believe this may be the first step in the outright elimination of the recovery fund in the next few years. Indiana is considering legislation which would require used motor vehicle dealers to post a \$15,000 bond as a condition of doing business in that state. This legislation has passed the House and is currently being heard in the Senate. Alabama is considering legislation which would narrow the definition of recovery under the bond. This legislation is in response to a court decision which broadened the definition and made the bond more adverse to surety. The legislation has had favorable committee hearings but has not yet passed either house.

### **CONTRACTOR LICENSE BONDS**

New York will consider legislation to require home improvement contractors to be registered and bonded at the state level. This legislation was recently introduced and has not yet had a committee hearing, but it is drawing strong support in the legislature. We continue to closely follow developments in California on recommendations to changes in the bond requirement; we have not seen any legislation of significance yet this year.



## **PROBATE BONDS**

Massachusetts is considering enacting the Uniform Probate Code, but without the anti-bonding provisions of that Act. We are unaware of any other significant legislation affecting probate bonds in the country this year.

## **CONTRACT BONDS – ANTI-DIRECTED SURETYSHIP**

We continue to promote the adoption of anti-directed suretyship legislation. New Mexico recently passed legislation enacting anti-directed suretyship, and Missouri is also considering it. Our goal continues to be to have all 50 states enact this legislation within the next couple of years.

We continue to closely follow legislation concerning retainage and Little Miller Acts. We are opposing legislation in Maryland which affects the contractor's retainage rights.

## **CREDIT SCORING**

We strongly oppose legislation which would unreasonably restrict our industry's ability to use credit scores or credit reports in underwriting. We are pleased to report that legislation in Missouri and Ohio which would have limited the use of credit scoring was defeated, and we are working on defeating similar legislation in Indiana.

## **PRODUCER LICENSING BONDS**

We continue to work with the National Association of Insurance Commissioners (NAIC) on a uniform producer license bond. We continue to oppose efforts to eliminate resident producer bonds. We were successful in South Dakota in maintaining the bond and are making efforts to do the same in Indiana.

## **REGULATORY MATTERS**

We have been very active this year in the rollout of the Terrorism Risk Insurance Act and the wet signature requirement on Power of Attorney forms submitted with federal bonds. We continue to closely watch regulatory developments in the states, particularly as they affect our ability to properly underwrite our products.

## **ASSOCIATIONS**

We continue to work very closely with the American Insurance Association (AIA), the Surety Association of America (SAA), and the National Association of Surety Bond Producers (NASBP). Together we have developed a strong and proactive lobbying effort on a wide variety of issues affecting our industry at both the federal and state level. We expect this productive working relationship to continue to grow in the coming years.

## **LEGISLATIVE MONITORING**

While we have discontinued our legislative monitoring service, I am pleased to report that the bills we are following are available on the CNA Surety website ([www.cnasurety.com](http://www.cnasurety.com)). I encourage you to visit our website to review the list of bills we are working on and following throughout the country.

Finally, we are reminded that our ability to proactively affect legislation grows when all member companies are involved in the actual discovery and monitoring of such legislation. We encourage you to keep in touch with us throughout the year as you learn of bills which may affect our industry, products and business practices. Thank you.