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# SURETY

MARCH 12, 2018

## THREE COMMON BONDS NON-CONTRACTORS MAY NEED

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Contract performance and payment bonds may be the best-known type of surety bonding, but bonds are required in many different industries and offer an alternative to other types of financial guarantees. This widely varying group of non-construction bonding is known as commercial or miscellaneous surety. Like contract bonding, commercial bonds are a three-party agreement between the principal who must provide the bond, the obligee who benefits from it, and the surety that performs the underwriting to back the guarantee financially. Commercial surety is also based on an indemnity agreement where the principal and its owners or other stakeholders agree to reimburse the surety for claims payments.

The following are the three most common types of bonds needed by non-contractors.

### REAL ESTATE OWNERS

#### 1. Release of lien bonds

When you have a payment dispute with a contractor you hire to work on your home or commercial property, the contractor can file a lien on your property. This affects your ability to obtain financing and sell the property. A release of lien bond is filed with the county and allows you to go about your business as if there were no lien. It gives the claimant recourse to a corporate surety in the event it is determined they have a legal right to recover the disputed payment. Note the underlying lien must be released by the claimant, dismissed in court, or confirmed to have expired without action in order to close the bond and clear the title. Release of lien bonds must be posted for 150% of the underlying claim, and they are usually collateralized with the surety in the full amount of the bond.

> The field of commercial surety includes everything from small, low risk bonds for compliance, to high dollar security instruments for extremely risky obligations.

### LITIGANTS

#### 2. Court bonds

If you are engaged in a civil court proceeding, you may be asked to file a bond with the court if you are asking for certain benefits, such as possession of disputed property or an injunction against the opposing party, in advance of final judgment. A temporary restraining order (TRO) bond is filed for the benefit of the opposing

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party, in case they suffer damages as a result of the TRO. A sheriff's indemnity bond protects the sheriff who goes out to recover property awarded in a judgment, in case they get sued for doing so. These types of bonds are usually small and easy to obtain. Larger amounts increase the amount of underwriting and require longer turn-around times.

Supersedeas and appeal bonds are considered some of the riskiest court bonds. They are required by court when you have lost a judgement and want to appeal, and guarantee the amount of the judgement plus interest and fees for the benefit of the opposing party. There are several reasons sureties consider these to be hazardous bonds: the court has already ruled against the principal once, the bond can be very long term because the appeal process may last for many years, and the claims history shows a higher likelihood of loss. These bonds usually require collateral in the full amount of the bond.

## BUSINESS OWNERS AND LICENSED PROFESSIONALS

### 3. License and permit bonds

If you're filling out a business license application with the state or city where you'll do business, it should tell you if a bond is required. License bonds guarantee that you will comply with the laws regulating the industry and may give third-party claim rights to customers, employees, or vendors. Be sure you understand what the bond is guaranteeing, and be aware that as a business owner you may need to provide personal indemnity to the approving surety. Personal indemnity is significant to an underwriter; they will feel more comfortable standing behind your company when they know that you are standing behind it too. As long as your company complies with the bonded obligation, there is no negative impact on the indemnitors.

Some examples of an individual license bond in Washington State are notary and audiologist's bonds. Corporate license bonds include the mortgage broker's bond, private post-secondary school bond, and nursing facility or patient funds bond.

The field of commercial surety includes everything from small, low risk bonds for compliance, to high dollar security instruments for extremely risky obligations. If you are asked to provide a bond and you're not sure where to start, remember that the bond always guarantees an underlying obligation. Request a copy of the contract or other legal document that states the bond requirement, along with any required bond form, and ask your broker to review and provide you with a list of underwriting requirements. This may include financial statements, credit authorization, and application forms. Providing complete submission materials will expedite processing with the carrier.