



The Surety and Fidelity Association of America  
1101 Connecticut Avenue, NW, Suite 800  
Washington, DC 20036  
Tel: (202) 463.0600  
Fax: (202) 463.0606  
[www.surety.org](http://www.surety.org)



**American Insurance Association**

American Insurance Association  
2101 L Street, NW, Suite 400  
Washington, DC 20037  
Tel: (202) 828.7100  
Fax: (202) 293.1219  
[www.aiadc.org](http://www.aiadc.org)

**Statement  
of the  
American Insurance Association  
and  
The Surety & Fidelity Association of America  
on  
Committee Bill No. 723**

**Senate Committee on Judiciary**

**March 16, 2009**

The American Insurance Association (AIA) is the leading property-casualty insurance trade organization, representing 350 insurers that write more than \$123 billion in premiums each year. AIA member companies offer all types of property - casualty insurance, including personal and commercial auto insurance, commercial property and liability coverage for small businesses, surety bonds, workers' compensation, homeowners' insurance, medical malpractice coverage, and product liability insurance.

The Surety & Fidelity Association of America (SFAA) is a national trade association of companies licensed to write fidelity and surety bonds in the United States. SFAA's 452 members are sureties on the vast majority of bonds in the United States and Connecticut, and include a number of companies active in providing surety bail bonds.

We appreciate the opportunity to submit comments on Committee Bill No. 723, An Act Concerning the Posting of Ten Per Cent Cash Bail.

This bill would permit release of criminal defendants upon payment of a cash deposit equal to 10% of the amount of bail set by the court. From the point of view of the criminal defendant, this bill has many advantages. The defendant will pay the clerk approximately the same amount as the bail bond premium but not have to provide collateral or third party indemnitors to guarantee payment of the balance of the bail amount. If the defendant fails to appear, no bail agent or surety will seek to mitigate its loss by recovering the defendant. In the vast majority of cases, the only sanction on the criminal for failing to appear in court will be forfeiture of the 10% cash deposit.

The bail bond agent, and ultimately the surety, do much more than collect the bond premium. The agent often obtains collateral or indemnity to guarantee that if the defendant fails to appear and the bond is forfeited, the agent and surety will have indemnity for the loss. This gives the defendant's friends or family members who provided the collateral or indemnity a powerful financial incentive to see that the defendant appears in court or is recovered promptly in the event of a default. The agent also monitors the defendant to avoid a default and attempts to recover a defendant who failed to appear. Finally, the agent or surety pays any forfeiture. All of this is missing from 10% cash bail. No one has any incentive to assure that the defendant appears or to recover him if he does not because no one other than the defendant is obligated to pay the amount set by the court in the event of a default.

Experience in other jurisdictions has shown that defendants will not pay the balance of the bail amount following a default. Attached to this Testimony is a copy of a February 8, 2009, article from the Philadelphia Inquirer<sup>1</sup> describing debts of over \$1 Billion owed to the City by absconding defendants who were released after depositing

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<sup>1</sup> See [http://www.philly.com/inquirer/front\\_page/20090208\\_Fugitives\\_owe\\_the\\_city\\_1\\_billion.html](http://www.philly.com/inquirer/front_page/20090208_Fugitives_owe_the_city_1_billion.html)

10% cash bail. The net effect of Bill No. 723 would be to allow defendants to walk out of the court system by paying one-tenth of the bail set by the court.

We realize that there have been problems with the administration and regulation of commercial bail in Connecticut, but the Insurance Department has taken the initiative to obtain the authority it needs to regulate bail effectively. On March 10 The Committee on Insurance and Real Estate unanimously approved Committee Bill No. 6354 that would make major changes in the bail industry and enable the Department to impose effective regulation on bail agents and sureties. The surety industry supports the Department's proposal and Committee Bill No. 6354. We believe it will enable the Department to eliminate past abuses and enable commercial bail in Connecticut to provide the same public benefits it provides in other states.

SFAA and our members that write bail bonds urge the Committee to reject Bill No. 723 and give the Insurance Department a chance to regulate bail bonds and bail agents under the powers granted by HB6354. We would be glad to answer any questions or to provide information on bail bonds and the services they provide to the public.

