

March 20, 2011

(To Jay Hancock, Reporter for Baltimore Sun Newspaper)

Mr. Hancock,

The fact that corporate sureties are regulated by the Maryland Insurance Administration and individual sureties are not has very, very little to do with the unfortunate situation highlighted in your article. Indeed, if Mr. Xavier's allegations of misrepresentation by the Church are true, it is highly likely that a corporate surety would have taken similar steps to protect itself.

The critical issue that seems to be lost in your article, is whether the bond underwriter has the financial ability to satisfy the obligations it underwrites. Because of the nature of the way individual sureties conduct business, they are as good a credit risk as large corporate sureties - if not better.

As I'm sure you're aware, corporate sureties typically write aggregate policy and bond limits are **many, many multiples** of their asset base. Why does this matter? Because if a corporate surety becomes insolvent, bondholders and policyholders will stand in the same line when it comes to collection on policy and bond claims as they arise - **and there is no guarantee that they will be able to collect one hundred cents on the dollar in the event of a corporate surety's insolvency.**

If a bondholder has an unsatisfied claim against an insolvent corporate surety, however, the bondholder can make a claim for recovery through the Maryland Property & Casualty Insurance Guaranty Corporation. Those claims, however are subject to several limitations, including the following:

1- **The PCIGC's obligation on a particular bond is subject to limits:** Under the Maryland insurance code, these limits are \$300,000 per claim and \$1,000,000 per bond.

2- **Large bondholders are excluded:** The PCIGC does not cover first party claims by insured's with a consolidated net worth in excess of \$50,000,000.

3- **The PCIGC does not have a bottomless supply of money:** Member insurers can only be assessed up to 2% of net direct written premium in any one year.

4- **Certain bonds are not covered by the PCIGC:** The PCIGC does not apply to bonds written on a surplus lines basis or by unauthorized insurers (e.g., those insurers who do not hold a certificate of authority).

Contrast this, if you will, with the way individual sureties do business and financially back their obligations.

Most individual sureties use industry-standard forms; essentially the same forms used by corporate sureties. So, as a contractual matter, the playing field is level in that regard due to market forces and competition, rather than regulation.

More importantly, however, is the fact that individual sureties are required to collateralize their bond obligations **on a dollar-for-dollar** basis in cash, cash equivalents, readily marketable assets held by a

Federally Insured institution and or Irrevocable Trust Receipts issued by Federally Insured Institution. What this means, as a practical matter, is that an individual surety cannot (unlike corporate sureties) write aggregate bond limits that exceed his/her asset base - and because those limits are collateralized on a **dollar-for-dollar** basis, there is absolute certainty of an asset pool that is available to satisfy valid bond claims; not a merely "statistical" or "actuarial" certainty as is the case with corporate sureties.

I agree with your statement that "It's not a matter of imposing excessive regulation or no regulation. It's getting the right regulation or registration."

Therefore, given that we are unaware of any corporate surety that collateralizes its bond obligations on a dollar for dollar basis, the nagging question on my mind is whether we have the right degree of regulation of corporate sureties, given the hundreds of billions of dollars they have cost the tax payers.

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