

ERISA BONDING REQUIREMENTS

Act Section 412 of ERISA has certain bonding requirements for Plan Trustees and others. The Act provides that those persons who "handle" plan funds or other property must be bonded. "Handling" involves significant risk of loss through fraud or dishonesty and is not limited to physical contact with the funds. It is incumbent upon the Plan Sponsor to ensure that "EVERY FIDUCIARY. . . AND EVERY PERSON" of a plan "WHO HANDLES FUNDS OR OTHER PROPERTY OF SUCH A PLAN" be bonded against loss due to fraud or dishonesty. Such persons have been defined as "those who have access to the employer's and employees' contributions or power to disburse them".

The Department of Labor requires that the amount of the bond for a given calendar, plan, or fiscal year be ten (10 %) percent of the funds handled during the preceding year. The amount of the bond may, but need not, exceed Five Hundred Thousand (\$500,000) Dollars. In the case of a plan without previous experience, the amount of the bond is based upon the estimated value of the trust fund assets for the current year. However, with respect to Plan Years beginning on or after January 1, 2002, if a Plan with fewer than one hundred (100) participants is claiming a waiver of the certified audit requirements, the amount of the bond may need to be increased to cover one hundred (100 %) percent of the value of unqualified assets held by the Plan (not subject to the \$500,000 maximum).

"Qualifying plan assets" are defined as assets held by a bank or similar financial institution, an insurance company, a broker-dealer registered with the Securities and Exchange Commission, or any other organization authorized to act as a trustee or custodian for Individual Retirement Accounts under Section 408 of the Internal Revenue Code.

Please inform your casualty insurance agent about the above, so that he may maintain an annual "check" on these requirements. Often an existing business policy can be endorsed to cover these bonding requirements.

If you have any questions, please do not hesitate to contact us.