

PREFACE

The law of suretyship and guaranty can be complex. By nature, suretyship and guaranty agreements involve multiple parties, and can arise in a wide variety of contexts. This book attempts to guide transactors and their attorneys through this challenging area of law. In doing so, it refers frequently to the Restatement Third, Suretyship and Guaranty. Where appropriate, it points to divergence between Restatement provisions, prevalent statutory authority, and the common law. In many cases, it outlines the evolution of the law from common law principles to its current often statutory state. All this is to facilitate the purpose of making the law of suretyship and guaranty more accessible to those who rely upon it.

This book examines the nature of the prototypical transaction and the scope of law in Chapters 1 and 2. It discusses issues that may arise in the formation process of a suretyship or guaranty agreement in Chapter 3 and the role of the Statute of Frauds in the suretyship and guaranty law in Chapter 4. Chapter 5 considers situations involving multiple secondary obligors Chapter 5 and Chapter 6 discusses the rights and duties of secondary obligors generally Chapter 6. Chapters 7 and 8 deal with the so-called “suretyship defenses.” Chapter 9 discusses the role of the Small Business Administration in certain guaranty transactions and Chapter 10 provides an overview of suretyship transactions in both the private and public construction fields.

For easy reference, three appendices are included following the text: a compilation of apposite state statutes, a primer to research in suretyship and guaranty law, and a cumulative bibliography.

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