April 9, 2020

Via Electronic Mail

Re: Emergency Action Needed on Electronic Execution and Delivery of Surety Bonds during the COVID-19 Pandemic

Dear Commissioner:

The COVID-19 pandemic has necessitated remote working arrangements and social distancing standards making it unworkable to meet the traditional requirements for the issuance of surety bonds on essential and legally-mandated national, state and local construction projects and other commercial transactions – largely due to physical/in-person process requirements that still exist.

We are requesting you to contact your Governor in support of our attached Request for Emergency Action. In addition, we would respectfully urge you to issue an Order finding that bonds will be valid and enforceable with electronic signatures and without a notarization during the pandemic or until normal work routines resume. Your actions will help ensure that the Governor and procurement agencies outside the Governor’s authority, which may not be as knowledgeable on insurance requirements, are comfortable taking this action.

On behalf of the surety industry, while operating during the COVID-19 pandemic, the Surety & Fidelity Association of America (SFAA), the National Association of Surety Bond Producers (NASBP) and the American Property Casualty Insurance Company (APCIA)1 submitted requests urging relevant Federal Officials, all Governors and over 1,400 Mayors to take Emergency Action to (1) accept electronic execution and delivery of both construction bonds and commercial surety bonds, to the extent this practice is not already officially adopted by federal, state or local officials and (2) waive notary requirements consistent with this request on all surety bonds. Associated

1 The Surety & Fidelity Association of America (SFAA) is a trade association of more than 425 insurance companies that write 98 percent of surety and fidelity bonds in the U.S. SFAA is licensed as a rating or advisory organization in all states and it has been designated by state insurance departments as a statistical agent for the reporting of fidelity and surety experience.

Members of the National Association of Surety Bond Producers (NASBP) are bonding agencies that specialize in providing surety bonds for construction contracts and other purposes to companies and individuals needing the assurance offered by surety bonds. NASBP members engage in contract and commercial surety production throughout the United States, Puerto Rico, Guam, and a number of other countries.

The American Property Casualty Insurance Association (APCIA) is the primary national trade association for home, auto, and business insurers. APCIA promotes and protects the viability of private competition for the benefit of consumers and insurers, with a legacy dating back 150 years. APCIA members represent all sizes, structures, and regions—protecting families, communities, and businesses in the U.S. and across the globe.
General Contractors of America, American Subcontractors Association, National Electrical Contractors Association, Sheet Metal and Air Conditioning Contractors' National Association, and Women Construction Owners & Executives joined in this request at the federal level. The United States General Service Administration has already taken this action in the attached Memorandum of Contracting Activities dated April 6, 2020.

Construction bonds have far reaching impacts. They guarantee the performance of and payment to small business contractors on thousands of public construction projects nationally and in the states, thereby providing critical protection of significant state and federal tax revenue and interests. Commercial bonds have an equally important impact and provide financial security for millions of consumers across the country in every state through, for example, license and permit bonds, guardian and conservatorship bonds, appeal bonds, lease bonds, utility bonds, and public official bonds. In 2019 alone, the surety industry provided $680 billion in protection across the country at the federal, state, and local levels.

For the reasons indicated, we are asking you to contact your Governor in support of our Request for Emergency Action and furthermore, we urge you to issue an Order finding that bonds will be valid and enforceable with electronic signatures and no notary.

Please contact Lee Ann Alexander, Vice President of Government Affairs, at lalexander@surety.org or Larry LeClair, Director, Government Relations, at lleclair@nasbp.org for any other questions you may have. We appreciate your attention to this critical and time-sensitive matter as we all work together to adapt to social distancing and the broad adoption of remote working arrangements.

Respectfully yours,

J. Lee Covington II  
President & CEO  
Surety & Fidelity Association of America

Mark McCallum  
CEO  
National Association of Surety Bond Producers

Joseph A DiGiovanni  
Senior Vice President, State Government Relations  
American Property Casualty Insurance Association