



April 2, 2020

Via Electronic Mail

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

Dear Governor:

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. 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)<sup>1</sup> respectfully urge public officials at the state and local level, to issue guidance (1) accepting electronic execution and delivery of both construction bonds and commercial surety bonds, to the extent this practice is not already officially adopted by state or local officials and (2) waiving notary requirements consistent with this request on all surety bonds.

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

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<sup>1</sup> 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.



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 set forth in the attached Request for Emergency Action, SFAA, NASBP and APCIA jointly and respectfully urge that the state and local public officials issue the following order for public officials overseeing construction surety bonds and commercial surety bonds during the COVID-19 pandemic:

1. With respect to all construction bonds, public procurement officials shall accept all surety bonds and powers of attorney containing e-signatures and e-corporate seals affixed to each document, and shall waive the requirement of a notary.
2. With respect to all commercial surety bonds, government agencies and officials shall accept all surety bonds and powers of attorney containing e-signatures and e-corporate seals affixed to each document, and shall waive the requirement of a notary.

At the federal level, similar action has been requested by SFAA, NASBP, APCIA, Associated General Contractors of America, American Subcontractors Association, National Electrical Contractors Association, Sheet Metal and Air Conditioning Contractors' National Association, and Women Construction Owners & Executives. The federal level action is only complementary to the state and local action requested in this letter, and therefore, state and local action is still needed. We hope the requested steps will be undertaken and lead to a seamless federal, state, and local approach to this important issue.

Please contact Lee Ann Alexander, Vice President of Government Affairs, at [lalexander@surety.org](mailto:lalexander@surety.org) or Larry LeClair, Director, Government Relations, at [lleclair@nasbp.org](mailto: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,

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