

THE SURETY & FIDELITY ASSOCIATION OF AMERICA
SERVING THE INDUSTRY SINCE 1908

July 27, 2018

Via Electronic Mail (sconnolly@wvsos.gov)

Stephen Connolly, Deputy Secretary - Chief Counsel
Office of the Secretary of State
State Capitol Building
1900 Kanawha Blvd East
Charleston, West Virginia 25305

**Re: Comments on Proposed Amendment to Rule
Title 153, Series 46; Code §39-4-1 *et seq.*
Bonding of Notaries Public**

Dear Mr. Connolly:

The Surety & Fidelity Association of America (“SFAA”) is a non-profit corporation whose member companies collectively write the majority of surety and fidelity bonds in the United States. SFAA is a licensed rating or advisory organization in all states and is designated by state insurance departments as a statistical agent for the reporting of premium and loss statistics for fidelity and surety bonds. The vast majority of bonds that secure licensing and regulatory obligations, including notary bonds, are provided by SFAA members.

SFAA appreciates the opportunity to submit comments related to the above referenced Proposed Amendment concerning notaries public. By removing the bonding requirement for notaries, we believe your office seeks to make the Rule consistent with recent changes to W. Va. Code §39-4-20 (2018). However, we contend that the changes to §39-4-20 do not necessarily preclude the Secretary of State from still requiring bonds. Notary applicants must still comply with rules promulgated by the Secretary of State. Moreover, the six (6) requirement set forth in §39-4-20(b) are not expressly exhaustive.

Requiring bonds is good public policy, given the importance of the service provided by notaries, and the reliance upon them by courts, government, and banking institutions. A surety bond provides two (2) valuable services. First, in the event that the bond principal defaults in its performance, namely in this case, a notary’s failure to comply with applicable laws, the surety steps in to handle claims on the bond and performs pursuant to the conditions of the bond and applicable statutory or regulatory language. Equally critical is the prequalification that a surety performs on a notary before the surety will write the bond. In this capacity, the surety assesses the notary’s ability to meet its obligations through a review of its experience and financial resources. Prequalification helps to ensure that notaries are preselected as having the ability and willingness

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to comply with applicable law. Importantly, the surety provides these services and assurances at no cost to the state. For these reasons, experience shows that surety bonds are the most cost-effective way to protect the public against licensing or regulatory violations.

Lastly, notary bonds are widely available and relatively inexpensive. By removing bonds as a requirement, West Virginia falls into a minority of jurisdictions that forego this requirement. Without requiring bonds, the state, on its own, will be forced to evaluate claims against notaries and expend its own resources to enforce compliance by notaries with applicable laws.

We at SFAA would be happy to discuss this matter further with you, if you have any questions. Thank you for your consideration.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'DSG', written over the text 'Sincerely yours,'.

Devin S. Girardi
Surety Analyst