

SURETY RECOMMENDATIONS AND BEST PRACTICES

Electronic Execution of Construction Bonds and Commercial Surety Bonds

Ohio continues to deal with the ongoing effects of the Coronavirus/COVID-19 (“COVID-19”). Official guidance from federal, state, and local governments continue to strongly encourage social distancing. The State of Ohio still encourages employers to allow their employees to work from home when at all possible.

In recognition of current state of affairs, the Ohio Insurance Institute issues this communication encouraging the following actions by state and local government officials:

- ***Accept 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***
- ***Waive notary requirements consistent with this request on all surety bonds or in the alternative, permit remote notarization as authorized under [R.C. 147.64](#).***

Ohio law does not affirmatively require “wet signatures” when executing construction bonds or commercial surety bonds. Ohio has adopted the Uniform Electronic Transactions Act (“UETA”) ([R.C. 1306](#)) which permits and encourages the use of electronic signatures.

The Ohio Department of Commerce-Division of Industrial Compliance recently added a link on their [homepage](#), under “Resources” and “Laws & Rules” to make clear that Ohio’s UETA is applicable to construction bonds and commercial surety bonds.

By way of reference, the [United States General Services Agency](#) (“GSA”), [United States Department of Defense](#), and the [Small Business Administration](#) have already moved to accept all surety bonds and powers of attorney containing e-signatures and e-corporate seals affixed to each document and waived the requirement for a notary. This action by the GSA is not binding on state and local governments. The action is emblematic of actions that can be taken by state and local governments to ease the execution of surety products during these unprecedented times.

During this current crises, it is important for both surety companies and state and local governments to protect our employees and encourage social distancing. Moving away from traditional notions of executions to a more modern method will allow our employees to remain safe from COVID-19 and continue moving local projects and companies forward in support of rebuilding our local economies. If you have any questions please contact Michael Farley, Vice President, Government Relations and General Counsel at 614-228-1593 mfarley@ohioinsurance.org.