

The Surety Association of Massachusetts

December 5, 2012

Mr. David J. Cotney, Commissioner of Banks
Massachusetts Division of Banks
1000 Washington Street, 10th Floor
Boston, MA 02118-6400

Re: Comments on proposed Amendments to 209 CMR 18.00

Dear Commissioner,

The Surety Association of Massachusetts is a local association of surety companies, agents, brokers and other professionals that provide or support fidelity and surety bonds in the Northeast. Members of our association are sureties on the majority of surety bonds in Massachusetts.

We applaud the efforts of your office to assure continued public protection through the use of surety bonds in the rules and regulations put forth by the Division of Banks. Our association is prepared to assist the Division preparing the surety component of any new or revised rules so that our members may respond to their clients with an appropriate product.

After review of the proposed modifications to 209 CMR 18.00 we offer the following comments:

1. Proposed amendments appear to put forth a new surety bond requirement, which would be in addition to any bonds that might already be required under MGL Ch. 93 Sections 24, 25 & 26.
2. Proposed amendments do not include the scope of coverage to be provided by the new bond requirement. Surety providers will need to know what the Division expects to be covered by the bond in order to adequately underwrite each applicant.
3. A bond form was not prescribed by the proposed amendments. We suggest the Division specify a form of bond so that 'coverage' is uniform. This could also resolve comment #2.
4. Bond amounts (limits) are not specified in the amendments. We suggest the Division develop a standard matrix of prescribed bond amounts.
5. Proposed amendments indicate the Commissioner of Banks will decide who is an acceptable surety. Surety providers are already regulated by the Division of

- Insurance. We suggest that the amendments provide for bonds from any surety properly licensed by the Massachusetts DoI.
6. Proposed amendments leave the requirement for bonds to the discretion of the Commissioner. Bonds required in an ‘adverse selection’ scenario such as this would be more difficult to procure (if at all). We suggest that any bond be required of all applicants. This will help assure continuing public protection for all applicants.

It appears the Divisions’ goal is to add the potential for an additional layer of surety bond protection on top of those already required under MGL Ch. 93. If that is the case, we encourage further refinement and definition of the requirement so surety providers are in the best position to provide a responsive product.

Thank you for the opportunity to provide commentary on these proposed amendments. We look forward to the development of a bond requirement that serves the public interest, while maintaining the surety’s ability to adequately underwrite each applicant.

Sincerely,

Shawn Dennett, President