

June 8, 2021

The Honorable Manuel P. Alvarez  
Commissioner  
Department of Financial Protection and Innovation  
300 S. Spring Street, Suite 15513  
Los Angeles, CA 90013

VIA ELECTRONIC MAIL TRANSMISSION: ([regulations@dfpi.ca.gov](mailto:regulations@dfpi.ca.gov))

**Re: PRO 02/20, Notice of Rulemaking Action, Subchapter 11.3 of Title 10 of the California Code of Regulations**

Dear Commissioner Alvarez:

As a leading representative of the surety bond industry, The Surety & Fidelity Association of America (SFAA)<sup>1</sup> is writing to provide comments on the Notice of Rulemaking Action by the Commissioner of Financial Protection and Innovation (Commissioner) to adopt new regulations under the Debt Collection Licensing Act (Act) in subchapter 11.3 of Title 10 of the California Code of Regulations (Proposal). The purpose of the Proposal is to establish the license application and procedures to enable debt collectors to apply for a debt collector license.

SFAA appreciates the opportunity to comment on the important Proposal. Our aim is to bring to your attention bonding issues with the Proposal that could adversely impact the cost of debt collector bonds. After a review of the Proposal, we are concerned with the bond requirement in proposed § 1850.50(g). That section would require a surety that issued a debt collector bond to provide notification to the Commissioner within 10 calendar days of any claim being filed against, or any amount being paid under, the bond pursuant to the Act. While SFAA finds the Proposal reasonable, SFAA believes the notice requirement is unnecessary and could add needless costs to debt collector bonds.

Pursuant to the Act, only the Commissioner can act against, or receive payment from, a debt collector bond. Accordingly, the Commissioner would have direct knowledge of any action against, or payout from, a debt collector bond, and would not need notification of such action taken by the Commissioner from a surety. Thus, the notice requirement in § 1850.50(g) would impose an unnecessary and costly burden for sureties and increase the cost of the bond. Considering the potential adverse impact, SFAA urges the Commissioner to delete § 1850.50(g)

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<sup>1</sup> SFAA is a trade association of more than 400 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.

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Page Two

from the Proposal. Similarly, subsection (2) of section 4 of the proposed bond form, which requires the same 10-day notice as in § 1850.50(g), should be deleted for the same reason as with § 1850.50(g).

In addition to the notice requirement, SFAA recommends the Commissioner amend proposed § 1850.50(d) to reduce the burden on licensees and sureties when the Commissioner requests an increase in a licensee's bond based on the amount of consumer debt collected by the licensee. As currently proposed, § 1850.50(d) requires the licensee to provide a new bond at the higher amount. Rather than request a new bond each time a minimum bond amount is raised, SFAA encourages the Commissioner to amend § 1850.50(d) to allow the option for the surety to issue a rider on behalf of the licensee if the surety agrees to increase the bond amount. If the surety declines to increase the bond, the licensee will need to secure a new bond at the full higher amount from another surety to replace the existing bond. The use of increase riders is a common and highly used industry practice for increasing the bond amount on existing bonds. Moreover, the practice is supported by the Nationwide Multistate Licensing System (NMLS) electronic bonding system and would avoid unnecessary administrative burdens and costs when the surety elects to increase a bond upon the notice of the Commissioner. Accordingly, SFAA recommends proposed § 1850.50(d) be amended to read as follows:

“(d) The Commissioner may set a higher minimum surety bond amount for a licensee based on the total dollar amount of consumer debt collected by the licensee. Upon notification by the Commissioner of the new surety bond amount, the licensee shall file with NMLS a rider from its surety to increase the surety bond on file to the higher amount, or a new replacement bond from another surety for the full higher amount.”

SFAA appreciates the opportunity to provide comments on the Proposal and stands ready to answer any questions you may have or provide additional information you may need.

Sincerely,



Stephen Taylor  
Director of Policy and Assistant General Counsel