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STATE OF COLORADO
DEPARTMENT OF LAW

January 25, 2023

[Redacted]

RE: *Electronic Surety Bonds*

Dear [Redacted]:

Thank you for your recent correspondence to the Administrator of the Uniform Consumer Credit Code, C.R.S. § 5-1-101, *et seq.* You asked about bonds that sureties or other authorized businesses issue on behalf of entities who are regulated by the Administrator. Specifically, you asked whether the bonds may contain an electronic seal and electronic signatures, as opposed to being submitted in hard copy with a non-electronic seal and non-electronic, wet ink, signatures.

As referenced in your question, Colorado law provides that specified entities regulated by the Administrator may submit a surety bond to satisfy financial responsibility obligations. *See* Rule 9(b)(1)(A) (supervised lenders); C.R.S. § 5-16-124(1) (collection agencies); C.R.S. § 5-19-213(a) (debt management companies). The bond must be issued by entities authorized by the Colorado Commissioner of Insurance. *See* Rule 9(b)(1)(A) (supervised lenders); C.R.S. § 5-16-124(1) (collection agencies); C.R.S. § 5-19-213(a) (debt management companies).

The Administrator makes bond forms available on the Administrator's website. The bond forms call for the affixation of corporate seals and call for signature by both the surety and the regulated entity.

The Administrator will accept electronic bonds, with electronic signatures and seals, to the same extent she accepts hard copy bonds provided that the submitted electronic bond forms contain sufficient characteristics to permit the Administrator to rely on the forms to enforce the surety's obligations. The Administrator provides the following guidelines to aid sureties in their preparation and submission of electronic bond forms.

Colorado has enacted the Uniform Electronic Transactions Act ("UETA"), C.R.S. § 24-71.3-101, *et seq.* Amongst other purposes, UETA exists to "facilitate electronic transactions consistent with other applicable law." C.R.S. § 24-71.3-106(1)(a).

With respect to efforts to attribute an electronic signature to a particular person, UETA references the use of a “security procedure.” C.R.S. § 24-71.3-109(1). UETA defines “security procedure” to mean “a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. The term includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures.” C.R.S. § 24-71.3-102(14).

The Administrator views security procedures (commonly-used examples include DocuSign and Adobe e-signature software) favorably with respect to a surety’s efforts to attribute an electronic signature to a person. When security procedures are used, the Administrator prefers that they are used for all signatures on the bond.

With respect to the delivery of electronic information, UETA provides that delivery is satisfied if it is sent in a form that is capable of retention by the recipient, as provided in C.R.S. § 24-71.3-108(1). The Administrator prefers to receive electronic bonds via a method that is encrypted.

Finally, the Administrator notes that Colorado insurance code, C.R.S. § 10-1-101, *et seq.*, sets forth requirements for electronic signatures. C.R.S. § 10-1-137. Sureties submitting electronic bonds to the Administrator should consider the applicability and requirements of C.R.S. § 10-1-137 prior to submitting electronic surety bonds to the Administrator.

We hope that you find this correspondence responsive to you request and useful in connection with any efforts to prepare and deliver electronic surety bonds to the Administrator.

Sincerely,

/s/ Nikolai Frant

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Consumer Credit Enforcement Unit
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