



National Association of Surety Bond Producers
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BY ELECTRONIC TRANSMISSION (ddejesus@berntownship.org)

July 1, 2016

Ms. Diane DeJesus, Township Secretary
Township of Bern Municipal Building
1069 Old Bernville Road
Reading, PA 19605

Re: Resident Agent Signature Requirement for the Bid Bond in the Township of Bern's Request for Bids for Collection, Transportation, Marketing and Disposal of Municipal Solid Waste and Recyclable Materials

Dear Ms. DeJesus:

On behalf of the National Association of Surety Bond Producers (NASBP), a national trade association of agencies employing surety bond producers, including licensed resident and nonresident producers placing bonds in the Commonwealth of Pennsylvania and in all other jurisdictions, I am writing you regarding the resident agent signature requirement in the bid security section of the Township of Bern's Request for Bids (RFB) for Collection, Transportation, Marketing and Disposal of Municipal Solid Waste and Recyclable Materials. Specifically, on page 9 of the RFB, under Bid Security, the bid bond must be issued through a "licensed Pennsylvania resident agent" Such a requirement violates the law.

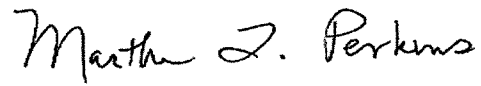
The resident agent signature and countersignature requirement in Pennsylvania was repealed in 1998. This resident agent signature requirement is wholly outdated with respect to modern business practices and, even more importantly, is at odds with the law in every state in and jurisdiction of the United States (with the exception of Guam, where it has not been challenged). You may not be aware that resident agent signature and countersignature requirements have been held as unconstitutional by federal courts throughout the United States and/or have been eliminated through acts of state legislatures, because such requirements impermissibly favor licensed resident agents over licensed non-resident agents.

Please note that, while the resident agent signature requirement is unconstitutional, it is certainly permissible for there to be a licensed agent signature requirement. And this leads me to a recommendation for a very easy "fix" for the language in the RFB.

The Township can simply delete the word "resident" so that the Bid Security language reads "through its licensed Pennsylvania agent" This would mean that the bond could be signed by either a licensed RESIDENT agent or a licensed NON-RESIDENT agent. It would be a simple fix.

I appreciate your prompt attention to the resident agent signature requirement, and I would be happy to answer any questions you may have.

Yours sincerely,

A handwritten signature in black ink that reads "Martha L. Perkins". The signature is written in a cursive style with a large, stylized 'M' and 'P'.

Martha L. Perkins
General Counsel