

Superseded 5/10/2016

31A-35-603 Collateral security.

- (1) A bail bond producer may accept collateral security in connection with a bail transaction, if the collateral security is reasonable in relation to the face amount of the bail bond.
- (2)
 - (a) The collateral security described in Subsection (1) shall be received by the bail bond producer in the bail bond producer's fiduciary capacity.
 - (b) Before any judgment of forfeiture of bail, the bail bond producer shall keep the collateral separate and apart from any other funds or assets of the licensee.
- (3)
 - (a) Any collateral that is deposited with a bail bond producer or bail bond surety shall be returned to the person who deposited it within 10 days after the return is requested by the person who deposited it if:
 - (i) the bail bond has been exonerated; and
 - (ii) all fees owed to the bail bond producer or bail bond surety have been paid.
 - (b) A certified copy of the minute order from the court stating the bail or undertaking was ordered exonerated is prima facie evidence of exoneration or termination of liability.
- (4)
 - (a) If a bail bond producer accepts collateral, the bail bond producer shall give a written receipt for the collateral.
 - (b) The receipt required by Subsection (4)(a) shall include a fully detailed account of the collateral received.
- (5) Upon return of collateral to the person who posted it, if any amount has been deducted by the bail bond surety or bail bond producer as expense, the bail bond surety or bail bond producer shall:
 - (a) include with the returned collateral an itemized statement of all expenses deducted from the collateral; and
 - (b) maintain a copy of the statement required by Subsection (5)(a) in the records of the bail bond surety or bail bond producer.
- (6) If the bail bond secured by the collateral is forfeited and the bail bond producer or bail bond surety retains possession of the collateral in payment of the forfeiture or otherwise disposes of the collateral, the person retaining possession or disposing of the property shall maintain a written record of the collateral, including any disposition.
- (7)
 - (a) If a document that conveys title to real property is used as collateral in a bail bond transaction, the document shall state on its face that it is executed as part of a security transaction.
 - (b) If the document described in Subsection (7)(a) is recorded, the bail bond producer or the bail bond surety shall:
 - (i) execute a reconveyance of the property, executed so that the reconveyance can be recorded; and
 - (ii) promptly deliver the reconveyance document to:
 - (A) the person executing the original conveyance; or
 - (B) the heirs, legal representative, or successor in interest of the person described in Subsection (7)(b)(ii)(A).