

13-42-113 Bond required.

- (1) Except as otherwise provided in Section 13-42-114, a provider that is required to be registered under this chapter shall file a surety bond with the administrator, which shall:
 - (a) be in effect during the period of registration and for two years after the provider ceases providing debt-management services to individuals in this state; and
 - (b) run to this state for the benefit of this state and of individuals who reside in this state when they agree to receive debt-management services from the provider, as their interests may appear.
- (2) Subject to adjustment of the dollar amount pursuant to Subsection 13-42-132(6), a surety bond filed pursuant to Subsection (1) shall:
 - (a) be in the amount of \$100,000;
 - (b) be issued by a bonding, surety, or insurance company authorized to do business in this state and rated at least A- by a nationally recognized rating organization; and
 - (c) have payment conditioned on noncompliance of the provider or its agent with this chapter.
- (3) If the principal amount of a surety bond is reduced by payment of a claim or a judgment, the provider shall immediately notify the administrator and, no later than 30 days after notice by the administrator, file a new or additional surety bond in an amount to comply with the \$100,000 requirement. If for any reason a surety terminates a bond, the provider shall immediately file a new surety bond in the amount of \$100,000.
- (4) The administrator or an individual may obtain satisfaction out of the surety bond procured pursuant to this section if:
 - (a) the administrator assesses expenses under Subsection 13-42-132(2)(a), issues a final order under Subsection 13-42-133(1)(b), or recovers a final judgment under Subsection 13-42-133(1)(d) or (e) or Subsection 13-42-133(4); or
 - (b) an individual recovers a final judgment pursuant to Subsection 13-42-135(1), Subsection 13-42-135(2), or Subsection 13-42-135(3)(a), (b), or (d).
- (5) If claims against a surety bond exceed or are reasonably expected to exceed the amount of the bond, the administrator, on the initiative of the administrator or on petition of the surety, shall, unless the proceeds are adequate to pay all costs, judgments, and claims, distribute the proceeds in the following order:
 - (a) to satisfaction of a final order or judgment under Subsection 13-42-133(1)(a), (d), or (e) or Subsection 13-42-133(4);
 - (b) to final judgments recovered by individuals pursuant to Subsection 13-42-135(1), Subsection 13-42-135(2), or Subsection 13-42-135(3)(a), (b) or (d), pro rata;
 - (c) to claims of individuals established to the satisfaction of the administrator, pro rata; and
 - (d) if a final order or judgment is issued under Subsection 13-42-133(1), to the expenses charged pursuant to Subsection 13-42-132(2)(a).

Amended by Chapter 152, 2012 General Session