

Part 4 Certificate of Authority

31A-35-401 Requirement for license or certificate of authority -- Process -- Fees -- Limitations.

- (1)
 - (a) A person may not engage in the bail bond insurance business unless that person:
 - (i) is a bail bond agency licensed under this chapter;
 - (ii) is a surety insurer that is granted a certificate under this section in the same manner as other insurers doing business in this state are granted certificates of authority under this title; or
 - (iii) is a bail bond producer licensed in accordance with this section.
 - (b) A bail bond agency shall be licensed under this chapter as an agency.
 - (c) A bail bond producer shall be licensed under Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries, as a limited lines producer.
- (2) A person applying for a bail bond agency license under this chapter shall submit to the commissioner:
 - (a) a completed application form as prescribed by the commissioner;
 - (b) a fee as determined by the commissioner in accordance with Section 31A-3-103; and
 - (c) any additional information required by rule.
- (3) A fee required under this section is not refundable.
- (4) A fee collected from a bail bond agency shall be deposited into a restricted account created in Section 31A-35-407.
- (5)
 - (a) A bail bond agency shall be domiciled in Utah.
 - (b) A bail bond producer shall be a resident of Utah.
 - (c) A foreign surety insurer that is granted a certificate to sell bail bonds may only sell bail bonds through a bail bond agency licensed under this chapter.

Amended by Chapter 234, 2016 General Session

31A-35-401.5 Additional licensure requirements for a bail bond agency.

- (1) A person applying for licensure or the reinstatement of a license as a bail bond agency shall, in addition to the requirements of Section 31A-35-401, provide proof that at least one principal of the bail bond agency will have a minimum of 2,000 hours of experience working as an employee of a bail bond agency as a licensed bail bond producer.
- (2) The applicant shall provide proof of the experience claimed under Subsection (1), including providing:
 - (a) the exact details of the character and nature of the experience on a form provided by the department;
 - (b) a statement by each employer verifying the number of hours the applicant worked for the employer; and
 - (c)
 - (i) federal income reporting forms that account for the wages for hours claimed or documented approval of the claimed hours by the insurance commissioner; and
 - (ii) the total of 2,000 hours may be proved in part by federal income reporting forms and in part by approval by the insurance commissioner.

(3) The burden of proving the hours of experience as required in this section is upon the applicant.

Amended by Chapter 234, 2016 General Session

31A-35-402 Authority related to bail bonds.

- (1) A bail bond agency may only sell bail bonds.
- (2) In accordance with Section 31A-23a-205, a bail bond producer may not execute or issue a bail bond in this state without holding a current appointment from a surety insurer or a current designation from a bail bond agency.
- (3) A bail bond surety agency or surety insurer may not allow any person who is not a bail bond producer to engage in the bail bond insurance business on the bail bond agency's or surety insurer's behalf, except for individuals:
 - (a) employed solely for the performance of clerical, stenographic, investigative, or other administrative duties that do not require a license as:
 - (i) a bail bond agency; or
 - (ii) a bail bond producer; and
 - (b) whose compensation is not related to or contingent upon the number of bail bonds written.

Amended by Chapter 234, 2016 General Session

31A-35-403 Exemptions to licensing requirements.

This chapter does not affect the negotiation through a licensed producer for, or the execution or delivery of, an undertaking of bail executed by an insurer for its insured under a policy of automobile insurance or of liability insurance upon the automobile of the insured.

Amended by Chapter 298, 2003 General Session

31A-35-404 Minimum financial requirements for bail bond agency license.

- (1)
 - (a) A bail bond agency that pledges the assets of a letter of credit from a Utah depository institution in connection with a judicial proceeding shall maintain an irrevocable letter of credit with a minimum face value of \$300,000 assigned to the state from a Utah depository institution.
 - (b) Notwithstanding Subsection (1)(a), a bail bond agency described in Subsection (1)(a) that is licensed under this chapter as of December 31, 1999, shall maintain an irrevocable letter of credit with a minimum face value of \$250,000 assigned to the state from a Utah depository institution.
- (2)
 - (a) A bail bond agency that pledges personal or real property, or both, as security for a bail bond in connection with a judicial proceeding shall maintain:
 - (i)
 - (A) a financial statement for the current year:
 - (I) reviewed by a certified public accountant; and
 - (II) showing a net worth of at least \$300,000, at least \$100,000 of which is in liquid assets;
 - or
 - (B) notwithstanding Subsection (2)(a)(i), if the bail bond agency is licensed under this chapter as of December 31, 1999, a current financial statement:
 - (I) reviewed by a certified public accountant; and

- (II) showing a net worth of at least \$250,000, at least \$50,000 of which is in liquid assets;
- (ii) a copy of the applicant's federal and state income tax returns for the preceding two years, but only for an original application; and
- (iii) for each parcel of real property owned by the applicant and included in net worth calculations:
 - (A) a title letter or report, or a current abstract of title from the office of the county recorder; and
 - (B)
 - (I) a certified appraisal made not more than six months prior to licensure for each parcel and a title report that is current as of the date of licensure, if the bail bond agency is in its first year of licensure and has pledged real property owned by the applicant; or
 - (II) a certified appraisal report or a current tax notice and a title letter or report, or a current abstract of title from the county recorder if the bail bond agency is in its second or subsequent year of licensure and has pledged real property owned by the applicant.
- (b) For purposes of this Subsection (2), only real or personal property located in Utah may be included in the net worth of the bail bond agency.
- (3) A bail bond agency shall maintain a qualifying power of attorney issued by a surety insurer if:
 - (a) the bail bond agency is the agent of the surety insurer; and
 - (b) the surety insurer:
 - (i) sells bail bonds;
 - (ii) is in good standing in its state of domicile; and
 - (iii) is granted a certificate to write bail bonds in Utah.
- (4) The commissioner may revoke the license of a bail bond agency that fails to maintain the minimum financial requirements required under this section.
- (5) The commissioner may set by rule the limits on the aggregate amounts of bail bonds issued by a bail bond agency.

Amended by Chapter 234, 2016 General Session

31A-35-405 Issuance of license -- Denial -- Right of appeal.

- (1) Upon a determination by the board that a person applying for a bail bond agency license meets the requirements for issuance of a license under this chapter, the commissioner shall issue to that person a bail bond agency license.
- (2)
 - (a) If the commissioner denies an application for a bail bond agency license under this chapter, the commissioner shall provide prompt written notification to the person applying for licensure:
 - (i) stating the grounds for denial; and
 - (ii) notifying the person applying for licensure as a bail bond agency that:
 - (A) the person is entitled to a hearing if that person wants to contest the denial; and
 - (B) if the person wants a hearing, the person shall submit the request in writing to the commissioner within 15 days after the issuance of the denial.
 - (b) The department shall schedule a hearing described in Subsection (2)(a) no later than 60 days after the commissioner's receipt of the request.
 - (c) The department shall hear the appeal, and may:
 - (i) return the case to the commissioner for reconsideration;
 - (ii) modify the commissioner's decision; or
 - (iii) reverse the commissioner's decision.

- (3) A decision under this section is subject to review under Title 63G, Chapter 4, Administrative Procedures Act.

Amended by Chapter 234, 2016 General Session

31A-35-406 Renewal and reinstatement.

- (1)
- (a) A license under this chapter expires annually on August 14. To renew its license under this chapter, on or before July 15 a bail bond agency shall:
 - (i) complete and submit a renewal application to the department;
 - (ii) require that a principal of the agency attends at least one board meeting each year; and
 - (iii) pay the department the applicable renewal fee established in accordance with Section 31A-3-103.
 - (b) A bail bond agency shall renew its license under this chapter annually as established by department rule, regardless of when the license is issued.
- (2) A bail bond agency may apply for reinstatement of an expired bail bond agency license within one year following the expiration of the license under Subsection (1) by:
- (a) submitting the renewal application required by Subsection (1); and
 - (b) paying a license reinstatement fee established in accordance with Section 31A-3-103.
- (3) If a bail bond agency license has been expired for more than one year, the person applying for reinstatement of the bail bond agency license shall:
- (a) submit a new application form to the commissioner; and
 - (b) pay the application fee established in accordance with Section 31A-3-103.
- (4) If a bail bond agency license is suspended, the applicant may not submit an application for a bail bond agency license until after the end of the period of suspension.
- (5) A fee collected under this section shall be deposited in the restricted account created in Section 31A-35-407.

Amended by Chapter 234, 2016 General Session

31A-35-407 Restricted account.

- (1) There is created within the General Fund a restricted account known as the "Bail Bond Administration Account."
- (2)
- (a) The account shall be funded from the fees imposed under this chapter.
 - (b) The department shall deposit all fees collected under this part into the account.
 - (c) The funds in the account shall be used by the department to administer this chapter.
 - (d) The account shall earn interest, which shall be deposited into the account.
- (3) The department shall, at the end of each quarter, provide to the board an itemized accounting that includes the balances at the beginning and the end of the quarter. The department shall provide the report no later than the 30th day of the month subsequent to the last month of the required quarterly report.

Amended by Chapter 234, 2016 General Session