

Part 6

Conduct of Bail Bond Business

31A-35-601 Acts of producer or agent.

- (1) The acts or conduct of any bail bond producer who acts within the scope of the authority delegated to the producer by the bail bond agency or surety insurer are considered to be the acts or conduct of the bail bond agency or surety insurer for which the bail bond producer is acting as agent.
- (2) The acts or conduct of any bail bond agency that acts within the scope of the authority delegated to the bail bond agency by the surety insurer are considered to be the acts or conduct of the surety insurer.
- (3)
 - (a) Bail bond agencies and surety insurers are not liable for the actions of bail enforcement agents, bail recovery agents, or bail recovery apprentices.
 - (b) Bail enforcement agent, bail recovery agent, and bail recovery apprentice mean the same as those terms are defined in Section 53-11-102.

Amended by Chapter 234, 2016 General Session

31A-35-602 Place of business -- Records to be kept at place of business.

- (1)
 - (a) A bail bond agency shall have and maintain in this state a place of business:
 - (i) accessible to the public; and
 - (ii) where the bail bond agency principally conducts transactions authorized by its bail bond agency license.
 - (b) The address of the place of business described in Subsection (1)(a) shall appear upon:
 - (i) the application for a bail bond agency license; and
 - (ii) a bail bond agency license issued under this chapter.
 - (c) In addition to complying with Subsection (1)(b), a bail bond agency shall register and maintain with the commissioner the following at which the commissioner may contact the bail bond agency:
 - (i) a telephone number; and
 - (ii) a business email address.
 - (d) A bail bond agency shall notify the commissioner within 20 days of a change in the bail bond agency's:
 - (i) place of business address;
 - (ii) telephone number; and
 - (iii) business email address.
 - (e) This section does not prohibit a bail bond agency from maintaining the place of business required under this section in the licensee's residence, if the residence is in Utah.
- (2) The bail bond agency shall keep at the place of business described in Subsection (1)(a) the records required under Section 31A-35-604.

Amended by Chapter 234, 2016 General Session

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.
 - (c) All cash collateral shall be recorded and deposited into the bail bond agency's trust account within three business days after receipt of the cash.
 - (d) All personal property and merchandise collateral shall be recorded in the bail bond agency's merchandise log within three business days after receipt of the merchandise.
- (3)
 - (a) Any collateral that is deposited with a bail bond producer or bail bond agency 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 agency 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 agency or bail bond producer as expense, the bail bond agency 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 agency or bail bond producer.
- (6) If the bail bond secured by the collateral is forfeited and the bail bond producer or bail bond agency 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 agency 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).
- (8) The bail bond agency shall maintain an itemized list of all merchandise collateral, which shall include:

- (a) the date of the bail bond;
- (b) the full name of the defendant;
- (c) the full name of each cosigner;
- (d) a detailed description of the collateral;
- (e) the amount of bail;
- (f) the approximate value of the merchandise; and
- (g) the final disposition of the merchandise.

Amended by Chapter 234, 2016 General Session

31A-35-604 Records.

- (1) A bail bond producer shall maintain at the bail bond producer's place of business:
 - (a) records of all bail bonds the bail bond producer executes or countersigns, so the public may obtain all necessary information concerning those bail bonds for not less than the current calendar year plus the three prior years after the liability of the bail bond agency or surety insurer has been terminated; and
 - (b) any additional information the commissioner may reasonably require by rule.
- (2) Records required to be maintained under Subsection (1) shall be available for examination by the commissioner or the commissioner's representatives during regular business hours.
- (3) The bail bond agency shall maintain for not less than the current calendar year and the three years after receipt all records of any bail bond executed or countersigned by a bail bond producer appointed by the bail bond agency.

Amended by Chapter 234, 2016 General Session

31A-35-605 Guarantors -- Agreement and enforcement.

- (1) All agreements of persons to act as guarantor for a bail bond shall be in writing or reduced to writing as soon as possible after completion.
- (2) When a person executes an agreement to act as a guarantor, the bail bond agency or the bail bond producer shall deliver to that person a copy of the agreement promptly upon that person's execution of the agreement.
- (3) A bail bond producer may not enforce any guarantor agreement without disclosing to the guarantor all collateral held by the bail bond producer indemnifying the bail bond to which the agreement relates, and the identity of each other guarantor.

Amended by Chapter 234, 2016 General Session

31A-35-606 Bail agreement prior to commission of offense prohibited.

A bail bond agency or bail bond producer may not enter into an agreement or arrangement with any person, guaranteeing or assuring in advance of the commission of any offense that bail will be furnished to that person or any other party if arrested.

Amended by Chapter 234, 2016 General Session

31A-35-607 Filing of forms -- Commissioner maintains files.

- (1)
 - (a) In accordance with Section 31A-21-201, a bail bond agency that meets the financial capacity requirements through the use of a letter of credit, personal property, real property, or a surety

insurer shall file with the commissioner a copy of each form the bail bond agency or surety insurer uses in the bail bond insurance business.

- (b) A surety insurer filing shall comply with the following:
 - (i) a form shall be identified by a unique form number;
 - (ii) a form shall include the address, telephone number, and business email address of the bail bond agency and the surety insurer;
 - (iii) the surety insurer shall file a form on behalf of each bail bond agency appointed to write on behalf of the surety insurer;
 - (iv) once a filing is filed with the commissioner, it is the responsibility of the surety insurer to verify that the bail bond agency and its producers are using the correct form;
 - (v) a bail bond agency and its bail bond producers are prohibited from using a form that has not been filed by the surety insurer; and
 - (vi) a bail bond agency and its bail bond producers are prohibited from making changes to a form that is filed by the surety insurer.
- (c) A bail bond agency filing, for a bail bond agency that meets the financial capacity requirements through the use of a letter of credit, personal property, or real estate, shall comply with the following:
 - (i) a form shall be identified by a unique form number;
 - (ii) a form shall include the address, telephone number, and business email address of the bail bond agency;
 - (iii) once a filing is filed with the commissioner, it is the responsibility of the bail bond agency to verify that its bail bond producers are using the correct form;
 - (iv) a bail bond producer is prohibited from using a form that has not been filed by the bail bond agency; and
 - (v) a bail bond producer is prohibited from making changes to a form that is filed by the bail bond agency.
- (2) A form described in Subsection (1) shall be filed 30 days before the form:
 - (a) is first used by the bail bond agency or surety insurer; and
 - (b) is changed after it is filed under Subsection (2)(a).
- (3)
 - (a) The commissioner shall maintain and make available for public inspection a file regarding each bail bond agency and each surety insurer.
 - (b) A bail bond agency and surety insurer shall maintain a form required to be filed under this section in the office of the bail bond agency or surety insurer.

Amended by Chapter 234, 2016 General Session

31A-35-608 Premiums and authorized charges.

- (1) A bail bond agency or bail bond producer may not, in any bail transaction or in connection with that transaction, directly or indirectly, charge or collect money or other valuable consideration from any person except to:
 - (a) pay the premium on the bail at the rates established by the bail bond agency or surety insurer;
 - (b) provide collateral;
 - (c) reimburse the bail bond agency or bail bond producer for actual expenses, as described in Subsection (2), incurred in connection with the bail bond transaction; or

- (d) reimburse the bail bond agency or bail bond producer, or to establish a right of action against the principal or any indemnitor, for actual expenses the bail bond agency or bail bond producer incurred:
 - (i) in good faith; and
 - (ii) which were by reason of breach by the defendant of any of the terms of the written agreement under which the undertaking of bail or bail bond was written.
- (2)
 - (a) A bail bond agency or surety insurer may bring an action in a court of law to enforce its equitable rights against the principal and the principal's indemnitors in exoneration if:
 - (i) a bail bond producer did not establish a written agreement; or
 - (ii) there is only an incomplete writing.
 - (b) Reimbursement claimed under this Subsection (2) may not exceed the sum of:
 - (i) the principal sum of the bail bond or undertaking; and
 - (ii) any reasonable expenses that:
 - (A) are verified by receipt;
 - (B) in total do not amount to more than the principal sum of the bail bond or undertaking; and
 - (C) are incurred in good faith by the bail bond agency, its bail bond producers, and the bail bond agency's employees by reason of the principal's breach.
- (3) This section does not affect or impede the right of a bail bond producer to execute undertaking of bail on behalf of a nonresident producer of the bail bond agency or surety insurer the bail bond producer represents.
- (4) A bail bond agency or surety insurer shall maintain complete records of all current and closed accounts receivable regarding financed premiums for the current calendar year and the three prior years.
- (5) If the bail amount on the original charge is increased by the court, the bail premium paid on the original bond may be applied to the bail premium due on the increased bail amount for that charge.

Amended by Chapter 234, 2016 General Session