

## **Chapter 35 Bail Bond Act**

### **Part 1 General Provisions**

#### **31A-35-101 Title.**

This chapter is known as the "Bail Bond Act."

Amended by Chapter 173, 2004 General Session

#### **31A-35-102 Definitions.**

As used in this chapter:

- (1) "Bail bond" means a bail bond insurance product for a specified monetary amount that is:
  - (a) executed by a bail bond producer licensed in accordance with Section 31A-35-401; and
  - (b) issued to a court, magistrate, or authorized officer to secure:
    - (i) the release of a person from incarceration; and
    - (ii) the appearance of the released person at court hearings the person is required to attend.
- (2) "Bail bond agency" means any sole proprietor or entity that:
  - (a) is licensed under Subsection 31A-35-404(1) or (2);
  - (b)
    - (i) is the agent of a surety insurer that sells a bail bond in connection with judicial proceedings;
    - (ii) pledges the assets of a letter of credit from a Utah depository institution for a bail bond in connection with judicial proceedings; or
    - (iii) pledges personal or real property, or both, as security for a bail bond in connection with judicial proceedings; and
  - (c) receives or is promised money or other things of value for a service described in Subsection (2)(b).
- (3) "Bail bond producer" means an individual who:
  - (a) is appointed by:
    - (i) a surety insurer that sells bail bonds; or
    - (ii) a bail bond agency licensed under this chapter;
  - (b) is appointed to execute or countersign undertakings of bail in connection with judicial proceedings; and
  - (c) receives or is promised money or other things of value for engaging in an act described in Subsection (3)(b).
- (4) "Bail enforcement agent" means the same as that term is defined in Section 53-11-102.
- (5) "Board" means the Bail Bond Oversight Board created in Section 31A-35-201.
- (6) "Certificate" means a certificate of authority issued under this chapter to allow an insurer to operate as a surety insurer.
- (7) "Indemnitor" means an entity or natural person that enters into an agreement with a bail bond agency to hold the bail bond agency harmless from loss incurred as a result of executing a bail bond.
- (8) "Liquid assets" means financial holdings that can be converted into cash in a timely manner without the loss of principal.
- (9) "Premium" means the specified monetary amount used to purchase a bail bond.
- (10) "Principal" means a person that:

- (a) guarantees the performance of a bail bond; or
  - (b) owns not less than 10% of the bail bond agency.
- (11) "Surety insurer" means an insurer that:
- (a) is licensed under Chapter 4, Insurers in General, Chapter 5, Domestic Stock and Mutual Insurance Corporations, or Chapter 14, Foreign Insurers;
  - (b) receives a certificate under this title; and
  - (c) sells bail bonds in connection with judicial proceedings.
- (12) "Utah depository institution" means a depository institution, as defined in Section 7-1-103, that:
- (a) has Utah as its home state; or
  - (b) operates a branch in Utah.

Amended by Chapter 234, 2016 General Session

**31A-35-103 Exemption from other provisions of this title.**

Bail bond agencies are exempted from:

- (1) Chapter 3, Department Funding, Fees, and Taxes, except Section 31A-3-103;
- (2) Chapter 4, Insurers in General, except Sections 31A-4-102, 31A-4-103, 31A-4-104, and 31A-4-107;
- (3) Chapter 5, Domestic Stock and Mutual Insurance Corporations, except Section 31A-5-103;
- (4) Chapter 6a, Service Contracts;
- (5) Chapter 6b, Guaranteed Asset Protection Waiver Act;
- (6) Chapter 7, Nonprofit Health Service Insurance Corporations;
- (7) Chapter 8, Health Maintenance Organizations and Limited Health Plans;
- (8) Chapter 8a, Health Discount Program Consumer Protection Act;
- (9) Chapter 9, Insurance Fraternal;
- (10) Chapter 10, Annuities;
- (11) Chapter 11, Motor Clubs;
- (12) Chapter 12, State Risk Management Fund;
- (13) Chapter 14, Foreign Insurers;
- (14) Chapter 15, Unauthorized Insurers, Surplus Lines, and Risk Retention Groups;
- (15) Chapter 16, Insurance Holding Companies;
- (16) Chapter 17, Determination of Financial Condition;
- (17) Chapter 18, Investments;
- (18) Chapter 19a, Utah Rate Regulation Act;
- (19) Chapter 20, Underwriting Restrictions;
- (20) Chapter 23b, Navigator License Act;
- (21) Chapter 25, Third Party Administrators;
- (22) Chapter 26, Insurance Adjusters;
- (23) Chapter 27, Delinquency Administrative Action Provisions;
- (24) Chapter 27a, Insurer Receivership Act;
- (25) Chapter 28, Guaranty Associations;
- (26) Chapter 30, Individual, Small Employer, and Group Health Insurance Act;
- (27) Chapter 31, Insurance Fraud Act;
- (28) Chapter 32a, Medical Care Savings Account Act;
- (29) Chapter 36, Life Settlements Act;
- (30) Chapter 37, Captive Insurance Companies Act;
- (31) Chapter 37a, Special Purpose Financial Captive Insurance Company Act;

- (32) Chapter 38, Federal Health Care Tax Credit Program Act;
- (33) Chapter 39, Interstate Insurance Product Regulation Compact;
- (34) Chapter 40, Professional Employer Organization Licensing Act;
- (35) Chapter 41, Title Insurance Recovery, Education, and Research Fund Act; and
- (36) Chapter 43, Small Employer Stop-Loss Insurance Act.

Amended by Chapter 64, 2021 General Session

**31A-35-104 Rulemaking authority.**

The commissioner shall by rule establish specific licensure and certification guidelines and standards of conduct for the business of bail bond insurance under this chapter.

Amended by Chapter 234, 2016 General Session

## **Part 2**

### **Commercial Bail Bond Surety Oversight Board**

**31A-35-201 Bail Bond Oversight Board.**

- (1) There is created a Bail Bond Oversight Board within the department, consisting of:
  - (a) the following seven voting members who shall be appointed by the commissioner:
    - (i) one representative each from four licensed bail bond agencies;
    - (ii) two members of the general public who do not have any financial interest in or professional affiliation with any bail bond agency; and
    - (iii) one attorney in good standing licensed to practice law in Utah; and
  - (b) a nonvoting member who is a staff member of the insurance department appointed by the commissioner.
- (2)
  - (a) The appointments are for terms of four years. A board member may not serve more than two consecutive terms.
  - (b) The commissioner shall, at the time of appointment or reappointment of a board member described in Subsection (1)(a), adjust the length of terms to ensure that the terms of board members are staggered so approximately half of the board is appointed every two years.
- (3) A board member serves until:
  - (a) removed by the commissioner;
  - (b) the member's resignation; or
  - (c) for a member described in Subsection (1)(a), the expiration of the member's term and the appointment of a successor.
- (4) When a vacancy occurs in the membership of a board member described in Subsection (1)(a) for any reason, the replacement shall be appointed for the remainder of the unexpired term.
- (5) The board shall annually elect one of its members as chair.
- (6) Four voting members constitute a quorum for the transaction of business.
- (7) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
  - (a) Section 63A-3-106;
  - (b) Section 63A-3-107; and
  - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

- (8)
  - (a) The commissioner, with a majority vote of the board, may remove any member of the board described in Subsection (1)(a) for misconduct, incompetency, or neglect of duty.
  - (b) The board shall conduct a hearing if requested by the board member described in Subsection (1)(a) that is to be removed.
- (9) Members of the board are immune from suit with respect to all acts done and actions taken in good faith in carrying out the purposes of this chapter.

Amended by Chapter 234, 2016 General Session

**31A-35-202 Board responsibilities.**

- (1) The board shall:
  - (a) meet:
    - (i) at least quarterly; and
    - (ii) at the call of the chair;
  - (b) make written recommendations to the commissioner for rules governing the following aspects of the bail bond insurance business:
    - (i) qualifications, applications, and fees for obtaining:
      - (A) a license required by this Section 31A-35-401; or
      - (B) a certificate;
    - (ii) limits on the aggregate amounts of bail bonds;
    - (iii) unprofessional conduct;
    - (iv) procedures for hearing and resolving allegations of unprofessional conduct; and
    - (v) sanctions for unprofessional conduct;
  - (c) screen:
    - (i) bail bond agency license applications; and
    - (ii) persons applying for a bail bond agency license; and
  - (d) recommend to the commissioner action regarding the granting, suspending, revoking, and reinstating of bail bond agency license.
- (2) Nothing in Subsection (1)(d) precludes the commissioner from suspending a license under Section 31A-35-504.
- (3) The board may:
  - (a) conduct investigations of allegations of unprofessional conduct on the part of persons or bail bond agencies involved in the business of bail bond insurance; and
  - (b) provide the results of the investigations described in Subsection (3)(a) to the commissioner with recommendations for:
    - (i) action; and
    - (ii) any appropriate sanctions.

Amended by Chapter 120, 2024 General Session

**Part 3**  
**Insurance Commissioner's Duties**

**31A-35-301 The commissioner's authority.**

- (1) The commissioner shall:

- (a) make rules as necessary for the administration of this chapter;
  - (b) with information as provided by the board, issue or deny licensure under this chapter;
  - (c) take action regarding a license, including suspension or revocation; and
  - (d) maintain and publish a current list of licensed bail bond agencies and bail bond producers.
- (2) The commissioner may establish fees for the issuance, renewal, and reinstatement of a bail bond agency license in accordance with Section 63J-1-504.

Amended by Chapter 234, 2016 General Session

## **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 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 32, 2020 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 on or before 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 a verified financial statement for the bail bond agency's immediately preceding fiscal year:
    - (i) reviewed by a certified public accountant; and
    - (ii) showing a minimum net worth of:
      - (A) \$300,000, at least \$100,000 of which is in liquid assets; or
      - (B) if the bail bond agency is licensed under this chapter on or before December 31, 1999, \$250,000, at least \$50,000 of which is in liquid assets.
  - (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 198, 2022 General Session

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

- (1) After the commissioner receives a complete application, fee, and any additional information in accordance with Section 31A-35-401, the board shall determine whether the applicant meets the requirements for issuance of a license under this chapter.
- (2)
  - (a) If the board determines that the applicant meets the requirements for issuance of a license under this chapter, the commissioner shall issue to that person a bail bond agency license.
  - (b) If the board determines that the applicant does not meet the requirements for issuance of a license under this chapter, the commissioner shall make a final determination as to whether to issue a license under this chapter.
- (3)
  - (a) If the commissioner denies an application for a bail bond agency license under this chapter, the commissioner shall provide prompt written notification of the denial by commencing an informal adjudicative proceeding in accordance with Title 63G, Chapter 4, Administrative Procedures Act.
  - (b) An applicant may request a hearing on a denial of an application for a bail bond agency license within 15 days after the day on which the commissioner issues the denial.
  - (c) The commissioner shall hold a hearing no later than 60 days after the day on which the commissioner receives a request for a hearing described in Subsection (3)(b).

Amended by Chapter 193, 2019 General Session

**31A-35-406 Initial licensing, license renewal, and license reinstatement.**

- (1) An applicant for an initial bail bond agency license shall:

- (a) complete and submit to the department an application;
  - (b) submit to the department, as applicable, a copy of the applicant's:
    - (i) irrevocable letter of credit, as required under Subsection 31A-35-404(1);
    - (ii) verified financial statement, as required under Subsection 31A-35-404(2); or
    - (iii) qualifying power of attorney, as required under Subsection 31A-35-404(3); and
  - (c) pay the department the applicable renewal fee established in accordance with Section 31A-3-103.
- (2)
- (a) A license under this chapter expires annually effective at midnight on August 31.
  - (b) To renew a bail bond agency license issued under this chapter, on or before August 31, the bail bond agency shall:
    - (i) complete and submit to the department a renewal application that includes certification that:
      - (A) a principal of the agency attended or participated by telephone in at least one entire board meeting during the 12-month period before August 31; and
      - (B) as of May 1, the agency complies with aggregate bond limits established by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
    - (ii) submit to the department, as applicable, a copy of the applicant's:
      - (A) irrevocable letter of credit, as required under Subsection 31A-35-404(1);
      - (B) verified financial statement, as required under Subsection 31A-35-404(2); or
      - (C) qualifying power of attorney, as required under Subsection 31A-35-404(3); and
    - (iii) pay the department the applicable renewal fee established in accordance with Section 31A-3-103.
  - (c) A bail bond agency shall renew the bail bond agency's license under this chapter annually as established by department rule, regardless of when the license is issued.
- (3)
- (a) A bail bond agency may apply for reinstatement of an expired bail bond agency license within one year after the day on which the license expires by complying with the renewal requirements described in Subsection (2).
  - (b) 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 comply with the initial licensing requirements described in Subsection (1).
- (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 day on which the period of suspension ends.
- (5) The department shall deposit a fee collected under this section in the restricted account created in Section 31A-35-407.

Amended by Chapter 120, 2024 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

## **Part 5**

### **Action Regarding a Certificate**

#### **31A-35-501 Emergency action regarding a license.**

- (1) If the commissioner determines, based on an investigation, that the public health, safety, or welfare requires emergency action, the commissioner may order a summary suspension of a bail bond agency license pending proceedings for revocation or other action.
- (2) The order described in Subsection (1) shall:
  - (a) state the grounds upon which the summary suspension is issued, including the charges made against the licensee; and
  - (b) advise the licensee of the right to an administrative hearing before the commissioner within 60 days after the summary suspension is ordered.

Amended by Chapter 234, 2016 General Session

#### **31A-35-502 Notification of violation of chapter.**

If the commissioner has reason to believe a person licensed as a bail bond agency, surety insurer, or bail bond producer has violated this chapter, written notice shall be sent to that person, advising the person of:

- (1) the alleged violation;
- (2) the commissioner's authority to take action against the person's license;
- (3) the person's right to an administrative hearing under Title 63G, Chapter 4, Administrative Procedures Act; and
- (4) the period of time within which the hearing described in Subsection (3) shall be requested if the person requests a hearing.

Amended by Chapter 234, 2016 General Session

#### **31A-35-503 Disciplinary action -- Hearing -- Appeal.**

- (1) Based on information the commissioner receives during a hearing described in Section 31A-35-502 regarding a person licensed as a bail bond agency or bail bond producer, the commissioner may:
  - (a) dismiss the complaint if the commissioner finds it is without merit;
  - (b) fix a period and terms of probation best adopted to educate the person;
  - (c) place the license on suspension for a period of not more than 12 months;
  - (d) impose a forfeiture pursuant to Section 31A-2-308; or
  - (e) revoke the license.
- (2) The commissioner shall advise the person described in Subsection (1) in writing of:
  - (a) the commissioner's findings based on the hearing; and
  - (b) the person's rights of appeal under this chapter.
- (3)

- (a) Unless the conditions of Subsection (3)(b) are met, if a bail bond agency license is suspended or revoked under this chapter, a member, employee, officer, or director of that corporation may not:
  - (i) be licensed as a bail bond agency or bail bond producer; or
  - (ii) be designated in any license to exercise authority under this chapter during the period of the suspension or revocation.
- (b) Subsection (3)(a) does not apply if the commissioner determines upon substantial evidence that the member, employee, officer, or director:
  - (i) was not personally at fault; and
  - (ii) did not acquiesce in the matter on account of which the license was suspended or revoked.

Amended by Chapter 234, 2016 General Session

**31A-35-504 Failure to pay bail bond forfeiture -- Grounds for suspension and revocation of bail bond agency license.**

- (1) As used in this section:
  - (a) "Agency" means a bail bond agency.
  - (b) "Judgment" means a judgment of bail bond forfeiture issued under Section 77-20-505.
- (2)
  - (a)
    - (i) An agency shall pay a judgment not later than 15 days following service of notice upon the agency from a prosecutor of the entry of the judgment.
    - (ii) An agency may pay a bail bond forfeiture to the court prior to judgment.
  - (b)
    - (i) A prosecutor who does not receive proof of or notice of payment of the judgment within 15 days after the service of notice to the agency of a judgment shall notify the commissioner of the failure to pay the judgment.
    - (ii) The commissioner shall notify the agency, by the most expeditious means available, of the nonpayment of the judgment.
    - (iii) The agency shall satisfy the judgment within five business days after receiving notice under Subsection (2)(b)(ii).
  - (c) If notice of entry of judgment is served upon the agency by mail, three additional days are added to the 15 days provided in Subsections (2)(a), (2)(b), and (2)(d).
  - (d) A prosecutor may not proceed under Subsection (2)(b) if an agency, within 15 days after service of notice of the entry of judgment is served:
    - (i) files a motion to set aside the judgment or files an application for an extraordinary writ; and
    - (ii) provides proof that the agency has posted the judgment amount with the court in the form of cash, a cashier's check, or certified funds.
  - (e) As used in this section, the filing of the following tolls the time within which an agency is required to pay a judgment if the motion or application is filed within 15 days after the day on which service of notice of the entry of a judgment is served:
    - (i) a motion to set aside a judgment; or
    - (ii) an application for extraordinary writ.
- (3) The commissioner shall suspend the license of the agency not later than five days following the agency's failure to satisfy the judgment as required under Subsection (2)(b).
- (4) If the prosecutor receives proof of or notice of payment of the judgment during the suspension period under Subsection (3), the prosecutor shall immediately notify the commissioner of the

payment. The notice shall be in writing and by the most expeditious means possible, including facsimile or other electronic means.

- (5) The commissioner shall lift a suspension under Subsection (3) within five days of the day on which all of the following conditions are met:
  - (a) the suspension has been in place for no fewer than 14 days;
  - (b) the commissioner has received written notice of payment of the unpaid forfeiture from the prosecutor; and
  - (c) the commissioner has received:
    - (i) no other notice of any unpaid forfeiture from a prosecutor; or
    - (ii) if a notice of unpaid forfeiture is received, written notice from the prosecutor that the unpaid forfeiture has been paid.
- (6) The commissioner shall commence an administrative proceeding and revoke the license of an agency that fails to meet the conditions under Subsection (5) within 60 days following the initial date of suspension.
- (7) This section does not restrict or otherwise affect the rights of a prosecutor to commence collection proceedings under Subsection 77-20-505(5).

Amended by Chapter 194, 2023 General Session

## **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

## Part 7

### Prohibitions and Penalties

#### **31A-35-701 Prohibited acts.**

- (1) A bail bond producer or bail bond agency may not:
  - (a) solicit business in or about:
    - (i) any place where persons in the custody of the state or any local law enforcement or correctional agency are confined; or
    - (ii) any court;
  - (b) pay a fee or rebate or give or promise anything of value to any person in order to secure a settlement, compromise, remission, or reduction of the amount of any undertaking or bail bond;
  - (c) pay a fee or rebate or give anything of value to an attorney in regard to any bail bond matter, except payment for legal services actually rendered for the bail bond producer or bail bond agency;
  - (d) pay a fee or rebate or give or promise anything of value to the principal or anyone in the principal's behalf; or
  - (e) engage in any other act prohibited by the commissioner by rule.
- (2) The following persons may not act as bail bond producers and may not, directly or indirectly, receive any benefits from the execution of any bail bond:
  - (a) a person employed at any jail, correctional facility, or other facility used for the incarceration of persons;
  - (b) a peace officer;
  - (c) a judge; and
  - (d) an inmate incarcerated in any jail, correctional facility, or other facility used for the incarceration of persons.
- (3) A bail bond producer may not:
  - (a) sign or countersign in blank any bail bond;
  - (b) give the power of attorney to, or otherwise authorize anyone to, countersign in the bail bond producer's name to a bail bond; or
  - (c) submit a bail bond to a jail or court in Utah without having completed a written agreement that:
    - (i) states the terms of the bail agreement, contract, or undertaking;
    - (ii) is signed by the bail bond producer; and
    - (iii) is filed with the department.
- (4) A bail bond producer may not advertise or hold himself or herself out to be a bail bond agency or surety insurer.
- (5) The following persons or members of their immediate families may not solicit business on behalf of a bail bond agency or bail bond producer:
  - (a) a person employed at any jail, correctional facility, or other facility used for the incarceration of persons;
  - (b) a peace officer;
  - (c) a judge; or
  - (d) an inmate incarcerated in any jail, correctional facility, or other facility used for the incarceration of persons.

Amended by Chapter 234, 2016 General Session



**31A-35-702 Early surrender without cause.**

- (1) The bail or bail bond premium shall be returned in full if a bail bond producer without good cause surrenders a defendant to custody before:
  - (a) the time specified in the undertaking of bail or the bail bond for the appearance of the defendant; or
  - (b) any other occasion where the presence of the defendant in court is lawfully required.
- (2) As used in this section, "good cause" includes:
  - (a) the defendant providing materially false information on the application for bail or a bail bond;
  - (b) the court's increasing the amount of bail beyond sound underwriting criteria employed by:
    - (i) the bail bond producer; or
    - (ii) the bail bond agency;
  - (c) a material and detrimental change in the collateral posted by:
    - (i) the defendant; or
    - (ii) a person acting on the defendant's behalf;
  - (d) the defendant changing the defendant's address or telephone number without giving reasonable notice to:
    - (i) the bail bond producer; or
    - (ii) the bail bond agency;
  - (e) the defendant commits another crime, other than a minor traffic violation, as defined by department rule, while on bail;
  - (f) failure by the defendant to appear in court at the appointed time; or
  - (g) a finding of guilt against the defendant by a court of competent jurisdiction.

Amended by Chapter 234, 2016 General Session

**31A-35-703 Disciplinary action.**

- (1) A person found to be in violation of the statutes or rules governing the conduct of bail bond producers and bail bond agencies under this chapter is subject to:
  - (a) disciplinary action by the commissioner against that person's:
    - (i) license, if the person is a bail bond agency or bail bond producer; or
    - (ii) certificate, if the person is a surety insurer; and
  - (b) imposition of civil penalties, as authorized under Title 31A, Chapter 2, Administration of the Insurance Laws.
- (2) Penalties 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-35-704 Submission of bail bond agencies and producers to jurisdiction of court.**

By applying for and receiving a license or certificate to engage in the bail bond insurance business in accordance with this chapter, a bail bond agency or bail bond producer:

- (1) submits to the jurisdiction of the court;
- (2) irrevocably appoints the clerk of the court as agent upon whom any papers affecting the bail bond agency's or bail bond producer's liability on the undertaking may be served; and
- (3) acknowledges that liability may be enforced on motion and upon notice as the court may require, without the necessity of an independent action.

Amended by Chapter 234, 2016 General Session