

SUBCHAPTER 5. BAIL BONDSMEN

PART 5. GENERAL PROVISIONS PERTAINING TO BAIL BONDSMEN

365:25-5-30. Definitions

The following words or terms, when used in this Part, shall have the following meaning, unless the context clearly indicates otherwise:

"High school diploma or equivalent" The equivalent of a high school diploma, as described by 59 O.S. §1305(A)(8), shall be the successful completion of all parts of the General Educational Development program or completion of a similar program authorized and approved by the Oklahoma State Department of Education. An applicant shall provide documentation that the Oklahoma State Department of Education considers the applicant's educational qualifications to be the equivalent of a high school diploma if necessary.

"Limited surety agent" means any individual who is duly licensed by the Commissioner and is appointed by an insurer by power of attorney to execute or countersign bail bonds in connection with judicial proceedings and receives or is promised money or other things of value.

"Premium" means a sum of money charged by the bail bondsman for services rendered on behalf of the principal. Nothing in this section shall be construed to include collateral security received by the bail bondsman in the definition of premium.

[Source: Added at 10 Ok Reg 1483, eff 5-1-93]; Amended at 25 Ok Reg 1660, eff 7-14-2008]

365:25-5-31. Business and residence addresses on applications

Original and renewal applications shall include the following:

- (1) applicant's residence mailing address,
- (2) applicant's residence street (physical) address,
- (3) prospective place of business mailing address, and
- (4) prospective place of business street (physical) address.

[Source: Added at 10 Ok Reg 1483, eff 5-1-93]

365:25-5-32. Examination fees

A fee of One Hundred Dollars (\$100.00) is required before an applicant may take the bail bondsman examination. An additional One Hundred Dollar (\$100.00) examination fee is required for each subsequent examination as described in 59 O.S. §1308.

[Source: Added at 10 Ok Reg 1483, eff 5-1-93]

365:25-5-33. Change of address requirements

59 O.S. §1310 requires bail bondsmen to notify the Insurance Commissioner within five (5) days after a change of address. This notification must include:

- (1) signature of the bondsman,

- (2) date of the notification, and
- (3) the bondsman's current telephone number.

[Source: Added at 10 Ok Reg 1483, eff 5-1-93]

365:25-5-34. Professional bondsman deposits

(a) Bondsman making an initial deposit required by 59 O.S. § 1306, shall deliver the deposit to the office of the Insurance Commissioner in Oklahoma City, Oklahoma. The bondsman shall appear in person at the office of the Insurance Commissioner to execute an assignment or pledge of the deposit as instructed by 59 O.S. § 1306.

(b) Bondsman making an additional deposit required by 59 O.S. § 1306, or replacing any portion of a deposit, may mail an executed assignment or pledge of the deposit to the Insurance Commissioner via certified mail. The additional or replaced deposit amount will not be added or included in the professional bail bondsman's deposit total until the additional or replaced deposit amount is received, processed, and accepted by the Oklahoma Insurance Department staff.

(c) The phrase "required level," as described by 59 O.S. § 1332 (D)(4)(b), shall be the bondsman's amount on deposit prior to a forfeiture payment. A bondsman shall make a deposit equal to the amount withdrawn by the Commissioner following the Commissioner's withdrawal of professional securities to pay a bond forfeiture. The deposit shall be made within ten (10) days from receipt of the withdrawal notice or mailing of the notice if no receipt is made. The bondsman shall follow the provisions of paragraph (a) of this section for the deposit.

[Source: Added at 10 Ok Reg 1483, eff 5-1-93; Amended at 14 Ok Reg 2307, eff 7-1-97; Amended at 19 Ok Reg 1325, eff 7-14-02; Amended at 25 Ok Reg 1660, eff 7-14-2008 Amended at 29 Ok Reg 1295, eff 7-14-12]

365:25-5-35. Bondsman license renewal

(a) Pursuant to 59 O.S. § 1309, bondsmen are required to renew their licenses biennially. Requirements for a complete renewal filing for a bondsman shall be submitted by the last day of the bondsman's birth month and must include a Two Hundred Dollar (\$200.00) renewal fee.

(b) Failure to complete the renewal process by the last day of the bondsman's birth month will result in an automatic expiration of the license. After the expiration, the license may be reinstated for up to one (1) year following the expiration date. If after the one (1) year date, the license has not been renewed, then the licensee shall be required to apply for a license as a new applicant.

(c) All licenses of bail bondsmen shall expire on the last day of the bondsman's birth month unless the Commissioner receives a complete renewal filing. A complete renewal filing consists of all necessary items required by paragraph (a) of this section as well as any other items required by the Commissioner.

(d) If the license has not been renewed by the expiration date, a bail bondsman shall not be authorized to continue acting as a bail bondsman.

[Source: Added at 10 Ok Reg 1483, eff 5-1-93; Amended at 15 Ok Reg 265, eff 10/17/97 (emergency); Amended at 15 Ok Reg 1401, eff 7/1/98; Amended at 25 Ok Reg 1660, eff 7-14-2008; Amended at 28 Ok Reg 1964, eff 7-14-11; Amended at 29 Ok Reg 1296, eff 7-14-12; Amended at 30 Ok Reg 1800, eff 7-14-13]

365:25-5-36. Monthly reports

(a) Bail bondsmen are required to submit monthly reports to the Insurance Commissioner within fifteen (15) days after the end of each preceding month pursuant to 59 O.S. §1314. All bondsmen must submit a report for each component of the license held, even if no bonds were written under any particular component during that month. The types of licenses include:

- (1) cash,
- (2) surety,
- (3) property, and
- (4) professional

(b) Bondsmen must submit a monthly report for:

- (1) each surety company with which he/she is appointed, whether or not any bonds were written on that company during that month;
- (2) each company with which he/she has an outstanding liability, even though the appointment has been canceled; and
- (3) each company with which he/she has an outstanding liability even though the company is no longer active in the bail bond business.

[Source: Added at 10 Ok Reg 1483, eff 5-1-93]

365:25-5-37. Usual and customary records

Bail bondsman shall maintain records at his/her place of business for a period of three (3) years immediately following the date of the transaction. Records shall be readily available for inspection to the Commissioner at any time during business hours and shall include, but not be limited to:

- (1) bail bond application,
- (2) indemnity agreement,
- (3) promissory note,
- (4) credit agreement,
- (5) copies of deeds or mortgages received or released,
- (6) description of personal properties received or released,
- (7) accounting of monies received and receipted,
- (8) copy of appearance bond,
- (9) copy of individually numbered power of attorney,
- (10) picture of defendant, and
- (11) bank records on escrow accounts.

[Source: Added at 10 Ok Reg 1483, eff 5-1-93]

365:25-5-38. Ten defendant limit

Pursuant to 59 O.S. §1320, a bondsman is authorized to write bonds on up to ten defendants per year, January 1 through December 31, in each county outside his resident county. For purposes of determining the ten defendants, the bondsman shall consider each date a bond or bonds are written on a defendant as being one of the ten defendants, not withstanding any previous bonds which have been written on that same individual. The ten defendant limit does not apply in counties without a registered bondsman in said county.

[Source: Added at 10 Ok Reg 1483, eff 5-1-93; Amended at 30 Ok Reg 1800, eff 7-14-13]

365:25-5-39. Affidavit as to undertaking

An Affidavit as to Undertaking shall be included on every appearance bond and shall declare the amount of premium (consideration) and security (collateral) received or promised. It shall further include the nature and description of, and the name of the person from whom it was received or promised. Information provided on the Affidavit as to Undertaking shall correspond with the information contained in the following:

- (1) appearance bond,
- (2) bondsman's office records, and
- (3) monthly report.

[Source: Added at 10 Ok Reg 1483, eff 5-1-93; Amended at 27 Ok Reg 1551, eff 7-14-10]

365:25-5-40. Computation of time in 59 O.S. §1332

(a) In computing any period of time in 59 O.S. §1332, 12 O.S. §2006(A) will be followed. 12 O.S. §2006(A) states, in pertinent part, as follows: *The day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a legal holiday as defined by Section 82.1 of Title 25 of the Oklahoma Statutes or any other day when the office of the court clerk does not remain open for public business until the regularly scheduled closing time, in which event the period runs until the end of the next day which is not a legal holiday or a day when the office of the court clerk does not remain open for public business until the regularly scheduled closing time. Unless otherwise provided by law, when the period of time prescribed or allowed is less than eleven (11) days, intermediate legal holidays and any other day when the office of the court clerk does not remain open for public business until the regularly scheduled closing time shall be excluded from the computation.*

(b) The defendant shall be returned to custody within ninety days or the forfeiture shall be paid on the ninety-first day, and the time begins to run as follows:

- (1) If the bondsman dates the return receipt, or the date of receipt of the order and judgment of forfeiture is evidenced electronically, then the days start running the next day.
- (2) If the bondsman does not date the return receipt or the date of receipt of the order and judgment of forfeiture is not evidenced electronically, but the

insurer or professional does, or the date of receipt is evidenced electronically, then the days start running the next day.

(3) If neither the bondsman nor the insurer or professional dates the return receipt, nor is the date of receipt of the order of judgment of forfeiture evidenced electronically, then the days start running the day after the order and judgment of forfeiture was mailed.

[Source: Added at 10 Ok Reg 1483, eff 5-1-93; Amended at 24 Ok Reg 2210, eff 7-14-07; Amended at 27 Ok Reg 1551, eff 7-14-10]

365:25-5-41. Special deposit

(a) In addition to the cash or securities deposited in trust with the State Treasurer through the Insurance Commissioner's office pursuant to 36 O.S. § 613, insurers writing bail bonds in this state shall deposit in trust additional cash or securities equaling at least Three Hundred Thousand Dollars (\$300,000.00), and insurers writing bail bonds in this state shall not exceed a twenty-to-one (20:1) ratio of outstanding liability-to-special deposit.

(b) An insurer shall comply with the following requirements to maintain the special deposit described in Subsection (a):

(1) The insurer's monthly report of outstanding liability shall be within ten percent (10%) of the outstanding liability reported by all the insurer's appointed surety bondsmen for that month.

(2) All bail bond forfeitures shall either be paid within 91 days after receipt of the Order and Judgment of Forfeiture or vacated by the court within 91 days from the date of receipt of the Order and Judgment of Forfeiture pursuant to Section 365:25-5-40.

(c) If the insurer fails to comply with either requirement of paragraph (b) more than three (3) times in a consecutive twelve (12) month period, the insurer's outstanding liability shall not exceed a ten-to-one (10:1) ratio of outstanding liability-to-special deposit. The Insurance Commissioner shall provide written notification of this requirement via certified mail, return receipt requested, to the insurer's address of record. The special deposit required by this paragraph shall become effective thirty (30) days from the date notification is received.

(d) If an insurer is authorized to write only bail bonds, any cash or securities deposited in trust with the State Treasurer through the Insurance Commissioner's office pursuant to 36 O.S. § 613 in excess of the minimum amount required by Section 613 shall apply towards the special deposit required by this section.

[Source: Added at 19 Ok Reg 1325, eff 7-14-02; Amended at 23 Ok Reg 2735, eff 7-14-2006; Amended at 30 Ok Reg 1800, eff 7-14-13]

365:25-5-42. Professional bondsman net worth

For purposes of 59 O.S. § 1306(A)(2), total assets of the bondsman shall include only those assets owned by the applicant for licensure as a bondsman. Any asset or liability owned jointly with another, including a spouse, shall be shown on financial

reports as required pursuant to 59 O.S. § 1309(B) and Section 365:25-5-35 by percentage of ownership of the bondsman individually.

[Source: Added at 19 Ok Reg 1325, eff 7-14-02]

365:25-5-43. Appointments

The effective date of the bondsman appointment described in 59 O.S. § 1317 shall be the date the Commissioner approves the completed appointment and notifies the bail bondsman's resident county court clerk.

[Source: Added at 25 Ok Reg 1660, eff 7-14-2008; Amended 29 Ok Reg 1296, eff 7-14-12]

365:25-5-44. Notice of return to custody

Following a forfeiture, if the defendant has been returned to custody as defined in 59 O.S. § 1332(C)(3), the bondsman shall file notice with the court clerk of the county where the forfeiture occurred by the ninety-first day after receipt of the order and judgment of forfeiture, certifying the defendant was returned to custody by the ninetieth day after receipt of the order and judgment of forfeiture. Failure to provide notice prior to the ninety-first day shall be a violation of 59 O.S. § 1310(A)(2).

[Source: Added at 27 Ok Reg 1551, eff 7-14-10]

365:25-5-45. Fines and costs due to Commissioner

All fines and costs assessed by order of the Commissioner shall be due and payable to the Oklahoma Insurance Department within thirty (30) days of the date of the order unless otherwise ordered.

[Source: Added at 28 Ok Reg 1964, eff 7-14-11]

365:25-5-46. Notification of use of business name

Any bondsman or surety doing business under any name or names other than the legal name of the bondsman or surety shall notify the Oklahoma Insurance Department prior to using the name or names.

[Source: Added at 28 Ok Reg 1964, eff 7-14-11]

365: 25-5-47. Financial statement required

If the license of a professional bondsman is transferred pursuant to 59 O.S. § 1306(D), the transferee shall submit a financial statement to the Department within 180 days after the date of the transfer.

[Source: Added at 30 Ok Reg 1800, eff 7-14-13]