2012 BAIL BOND STATUTES

PROTECTING OKLAHOMA

JOHN D. DOAK
INSURANCE COMMISSIONER

OKLAHOMA INSURANCE DEPARTMENT

OKLAHOMA INSURANCE DEPARTMENT
BAIL BOND DIVISION

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Section 1301. DEFINITIONS

A. This act shall only apply to the regulation of bail bonds for crimes, the punishment of which may be in excess of Twenty Dollars ($20.00) fine or twenty (20) days in jail, or both such fine and imprisonment.

B. As used in the act:

1. "Commissioner" means the Insurance Commissioner of the State of Oklahoma;

2. "Clerk" means the district or municipal court clerk;

3. "Insurer" means any domestic, foreign or alien surety company which has qualified generally to transact surety business and specifically to transact bail bond business in this state;

4. "Bail bondsman" means a surety bondsman, professional bondsman, property bondsman, or a cash bondsman as hereinafter defined;

5. "Surety bondsman" means any person who has been approved by the Commissioner and appointed by an insurer or a professional bondsman, by power of attorney, to execute or countersign bail bonds for the insurer or a professional bondsman, in connection with judicial proceedings and charges and receives money for his services;

6. "Managing general agent" (M.G.A.) means any person acting in the capacity of supervisor or manager over a licensed bondsman, who has been granted the authority or responsibility by a surety company to conduct surety business on its behalf, and to oversee the activities and conduct of the surety's appointed licensed bondsman agents, and who generally functions as an intermediate manager between the surety and its licensed bondsman agents. A managing general agent fulfilling these functions shall be a natural person, shall meet the qualifications of paragraph 5 of this subsection and shall be licensed as a bondsman;

7. "Professional bondsman" means any person who has been approved by the Commissioner and who pledges cash as security for a bail bond in connection with a judicial proceeding and charges and receives money for his services;

8. "Property bondsman" means any person who has been approved by the Commissioner and who pledges real property as security for a bail bond in a judicial proceeding and charges and receives money for his services;

9. "Cash bondsman" means any person who has been approved by the Commissioner and who deposits cash money as security for a bail bond in a judicial proceeding and charges and receives money for his services;

10. “Escrow deposit” means cash or valuable security deposited by an insurer of a surety bondsman or professional bondsman to secure the face amount of forfeiture pending appeal;

11. “Solicitation” means to ask for earnestly, seek to obtain by persuasion or entreaty, implore, beseech, tempt or entice a person directly or through another person by personal, mechanical, printed or published means to purchase a bail bond. Solicitation shall not include mass communication advertising, which shall include, but not be limited to, television, newspapers, magazines and billboards; and

12. “Bond” means an appearance bond for a specified monetary amount which is executed by the defendant and a licensed bondsman pursuant to the provisions of Section 1301 et seq. of this title and which is issued to a court clerk as security for the subsequent court appearance of the defendant upon release from actual custody pending the appearance.

Laws 1993, eff. Sept. 1, 1993.

Section 1302. POWER AND AUTHORITY TO ADMINISTER ACT – ACCEPTANCE OF COPIES OF ACTIONS, PROCEEDING OR FINDING OF FACT – REVIEW OF FILES

A. The Insurance Commissioner shall have full power and authority to administer the provisions of this act, which regulates bail bondsmen and to that end to adopt, and promulgate rules and regulations to enforce the purposes and provisions of this act. The Commissioner may employ and discharge such employees, examiners, counsel, and such other assistants as shall be deemed necessary, and he shall prescribe their duties and their compensation shall be the same as other state employees receive for similar services.

B. Any written instrument purporting to be a copy of any action, proceeding, or finding of fact by the Commissioner, or any record of the seal of his office shall be accepted by all the courts of this state as prima facie evidence of the contents thereof.

C. Open and ongoing investigative files shall not be open for review unless so ordered by a proper administrative order of the hearing examiner or Commissioner or by proper judicial order or legislative committee.

Laws 1987, eff. Nov. 1, 1987.

Section 1303. LICENSURE REQUIREMENT – EXCEPTIONS

A. No person shall act in the capacity of a bail bondsman or perform any of the functions, duties or powers prescribed for bail bondsmen under the provisions of the act unless that person shall be qualified and licensed as provided in this act: Provided, however, that none of the provisions or terms of this section shall prohibit any individual or individuals from (1) pledging real or other property as security for a

bail bond for himself or another in judicial proceedings who does not receive, or is not promised a fee or charge for his services provided such person shall not be permitted to make in excess of ten bonds per year or, (2) executing any bail bond for an insurer, pursuant to a bail bond service agreement entered into between such insurer and any automobile club or association, financing institution, insurance company or other organization or association, on behalf of a person required to furnish bail in connection with any violation of law arising out of the use of a motor vehicle.

B. No license shall be issued except in compliance with this act and none shall be issued except to an individual. License renewals shall be granted subject to all other provisions of this act.

A corporation as such shall not be licensed. Nothing herein contained shall be construed as repealing Section 11 of Title 5 of the Oklahoma Statutes; and it is further provided that licensed attorneys are prohibited from signing any bonds as surety in any civil or criminal action pending or about to be filed in any court of this state.

Laws 1991, emerg. eff. April 29, 1991.

Section 1304. EXPIRATION DATE

Each bail bondsman license issued shall expire biennially at 12:00 o'clock midnight on the last day of the birth month of the bondsman, unless revoked or suspended prior thereto by the Insurance Commissioner, or upon notice served upon the Commissioner that the insurer or employer of any bail bondsman has canceled the licensee's authority to act for such insurer or employer.

Amended by Laws 2011, HB 1243, emerg. eff. June 20, 2011.

Section 1305. APPLICATION FOR LICENSE – FORM – FEE

A. The application for license to serve as a bail bondsman shall affirmatively show that the applicant:

1. Is a person who has reached the age of twenty-one (21) years;

2. Is competent, trustworthy, financially responsible, and is of good personal and business reputation and character;

3. Has not been previously convicted of, or pled guilty or nolo contendere to, any felony, or to a misdemeanor involving moral turpitude or dishonesty;

4. Is a citizen of the United States;

5. Has been a bona fide resident of the state for at least one (1) year;

6. Will actively engage in the bail bond business;

7. Has knowledge or experience, or has received instruction in the bail bond business; and

8. Has a high school diploma or its equivalent; provided, however, the

provisions of this paragraph shall apply only to initial applications for license submitted on or after November 1, 1997, and shall not apply to renewal applications for license.

B. The applicant shall apply electronically on forms approved by the Insurance Commissioner, and the Commissioner may propound any reasonable interrogatories to an applicant for a license pursuant to Sections 1301 through 1340 of this title, or on any renewal thereof, relating to qualifications, residence, prospective place of business and any other matters which, in the opinion of the Commissioner, are deemed necessary or expedient in order to protect the public and ascertain the qualifications of the applicant. The Commissioner may also conduct any reasonable inquiry or investigation relative to the determination of the fitness of the applicant to be licensed or to continue to be licensed including, but not limited to, requiring a national criminal history record check as defined by Section 150.9 of Title 74 of the Oklahoma Statutes. The Commissioner may require any documents reasonably necessary to verify the information in the application.

C. An applicant shall furnish to the Commissioner a license fee of Two Hundred Fifty Dollars ($250.00) with the application, a complete set of the fingerprints of the applicant and two recent credential-size full face photographs of the applicant. The fingerprints of the applicant shall be certified by an authorized law enforcement officer. The applicant shall provide with the application an investigative fee of One Hundred Dollars ($100.00) with which the Commissioner will conduct an investigation of the applicant. All fees shall be nonrefundable.

D. Failure of the applicant to secure approval of the Commissioner shall not preclude the applicant from reapplying, but a second application shall not be considered by the Commissioner within three (3) months after denial of the last application.

E. The fee for a duplicate pocket license shall be Twenty-five Dollars ($25.00).

Amended by Laws 2012, SB 1127, eff. November 1, 2012.

Section 1306. CASH BONDSMAN – PROFESSIONAL BONDSMAN

A.

1. An applicant for a cash bondsman license shall meet all requirements set forth in Section 1305 of this title with exception of residence.

2. In addition to the requirements prescribed in Section 1305 of this title, an applicant for a professional bondsman license shall submit to the Insurance Commissioner financial statements prepared by an accounting firm or individual holding a permit to practice public accounting in this state in accordance with generally accepted principles of accounting procedures setting forth the total assets of the bondsman less liabilities and debts as follows: For all applications made prior to November 1, 2006, and the subsequent renewals of

a license issued upon the application when continuously maintained in effect as required by law, the statement shall show a net worth of at least Fifty Thousand Dollars ($50,000.00). For all applications made on and after November 1, 2006, and the subsequent renewals of a license issued upon the application when continuously maintained in effect as required by law, or for the renewal or reinstatement of any license that is expired pursuant to subsection D of Section 1309 of this title, suspended or revoked, the statement shall show a net worth of at least One Hundred Fifty Thousand Dollars ($150,000.00), the statements to be current as of a date not earlier than ninety (90) days prior to submission of the application and the statement shall be attested to by an unqualified opinion of the accountant.

3. Professional bondsman applicants shall make a deposit with the Insurance Commissioner in the same manner as required of domestic insurance companies of an amount to be determined by the Commissioner. For all applications made prior to November 1, 1996, and the subsequent renewals of a license issued upon the application when continuously maintained in effect as required by law, the deposit shall not be less than Twenty Thousand Dollars ($20,000.00). For all applications made on and after November 1, 1996, and the subsequent renewals of a license issued upon the application when continuously maintained in effect as required by law, or for the renewal or reinstatement of any license that is expired pursuant to subsection D of Section 1309 of this title, suspended or revoked, the deposit shall not be less than Fifty Thousand Dollars ($50,000.00). The deposits shall be subject to all laws, rules and regulations as deposits by domestic insurance companies but in no instance shall a professional bondsman write bonds which equal more than ten times the amount of the deposit which the bondsman has submitted to the Commissioner. Such deposit shall require the review and approval of the Insurance Commissioner prior to exceeding the maximum amount of Federal Deposit Insurance Corporation basic deposit coverage for any one bank or financial institution. In addition, a professional bondsman may make the deposit by purchasing an annuity through a licensed domestic insurance company in the State of Oklahoma. The annuity shall be in the name of the bondsman as owner with legal assignment to the Insurance Commissioner. The assignment form shall be approved by the Commissioner. If a bondsman exceeds the above limitation, the bondsman shall be notified by the Commissioner by mail with return receipt requested that the excess shall be reduced or the deposit increased within ten (10) days of notification, or the license of the bondsman shall be suspended immediately after the ten-day period, pending a hearing on the matter.

4. The deposit provided for in this section shall constitute a reserve available to meet sums due on forfeiture of any bonds or recognizance executed by the

bondsman.

5. Any deposit made by a professional bondsman pursuant to this section shall be released and returned by the Commissioner to the professional bondsman only upon extinguishment of all liability on outstanding bonds. Provided, however, the Commissioner shall have the authority to review specific financial circumstances and history of a professional bondsman, on a case-by-case basis, and may release a portion of the deposit if warranted. The Commissioner may promulgate rules to effectuate the provisions of this paragraph.

6. No release of deposits to a professional bondsman shall be made by the Commissioner except upon written application and the written order of the Commissioner. The Commissioner shall have no liability for any such release to a professional bondsman provided the release was made in good faith.

B. The deposit provided in this section shall be held in safekeeping by the Insurance Commissioner and shall only be used if a bondsman fails to pay an order and judgment of forfeiture after being properly notified or shall be used if the license of a professional bondsman has been revoked. The deposit shall be held in the name of the Insurance Commissioner and the bondsman. The bondsman shall execute an assignment of the deposit to the Insurance Commissioner for the payment of unpaid bond forfeitures.

C. Currently licensed professional bondsmen may maintain their aggregate liability limits upon presentation of documented proof that they have previously been granted a limitation greater than the requirements of subsection A of this section.

D. Notwithstanding any other provision of Sections 1301 through 1340 of this title, the license of a professional bondsman is transferable upon the death or legal or physical incapacitation of the bondsman to the spouse of the bondsman, or to such other transferee as the professional bondsman may designate in writing, and the transferee may elect to act as a professional bondsman until the expiration of the license or for a period of one hundred eighty (180) days, whichever is greater, if the following conditions are met:

1. The transferee shall hold a valid license as a surety bondsman in this state; and

2. The asset and deposit requirements set forth in this section continue to be met.

Amended by Laws 2010, SB 2054, c. 222, § 56, eff. November 1, 2010.

Section 1307.

Repealed by Laws 1987, HB 1033, eff. November 1, 1987.

Section 1308. EXAMINATIONS – FEES

A. The applicant for bail bondsman shall be required to appear in person and take an examination prepared by the Insurance Commissioner, testing the applicant's ability and qualifications to be a bail bondsman. Applications are valid for six (6) months after submission. If an applicant has not acted upon the application within that period, a new application and fees shall be submitted for the applicant to be considered for licensure.

B. Each applicant shall become eligible for examination if the applicant has completed sixteen (16) hours of education as required by Section 1308.1 of this title prior to the examination. Examinations shall be held at times and places as designated by the Commissioner.

C. The fee for the examination shall be One Hundred Dollars ($100.00). Results will be provided after the applicant is examined.

D. The failure of an applicant to pass an examination shall not preclude the applicant from taking subsequent examinations; provided, however, that at least thirty (30) days shall intervene between examinations; and provided further, after a third or subsequent examination failure, an applicant may not be examined for at least one (1) year after the last examination failure.

Amended by Laws 2011, HB 1243, emerg. eff. June 20, 2011.

Section 1308.1. ELIGIBILITY TO TAKE EXAMINATION – EDUCATIONAL REQUIREMENTS – ANNUAL FEE – RULES

A. In order to be eligible to take the examination required to be licensed as a bail bondsman, each person shall complete not less than sixteen (16) clock hours of education in subjects pertinent to the duties and responsibilities of a bail bondsman, including all laws and regulations related thereto. Further, each licensee shall complete biennially not less than sixteen (16) clock hours of continuing education in said subjects prior to renewal of the license. Such continuing education shall not include a written or oral examination.

Provided, any person licensed as a bail bondsman prior to November 1, 1989, shall not be required to complete sixteen (16) clock hours of education prior to licensure but shall be subject to the sixteen-hour continuing education requirement in order to renew said license, except that a licensed bail bondsman who is sixty-five (65) years of age or older and who has been licensed as a bail bondsman for fifteen (15) years or more shall be exempt from both the education and continuing education requirements of this section.

B. The Oklahoma Bondsman Association shall provide education for bail bondsman licensure as required by this section; provided that the Insurance Commissioner shall approve the courses offered and provided further such education meets the general standards for education otherwise established by the Insurance Commissioner.

C. The Oklahoma Bondsman Association shall submit biennially a fee of Two Hundred Dollars ($200.00), payable to the Insurance Commissioner which shall be deposited with the State Treasurer for the purposes of fulfilling and accomplishing the conditions and purposes of this section.

D. Any person who falsely represents to the Insurance Commissioner that compliance with this section has been met shall be subject, after notice and hearing, to the penalties and fines set out in Section 1310 of this title.

E. The Commissioner shall adopt and promulgate such rules as are necessary for effective administration of this section.

Amended by Laws 2011, HB 1243, emerg. eff. June 20, 2011.

Section 1309. RENEWAL LICENSES

A. A renewal license shall be issued by the Insurance Commissioner to a licensee who has continuously maintained same in effect, without further examination, upon payment of a renewal fee of Two Hundred Dollars ($200.00) for a bail bondsman and proof of completion of sixteen (16) hours of continuing education as required by Section 1308.1 of this title. The renewal fee for licenses expiring September 15, 2012, shall be prorated to the birth month of the bondsman. Thereafter the renewal fee shall be submitted biennially by the last day of the birth month of the bondsman. Such licensee shall in all other respects be required to comply with and be subject to the provisions of Section 1301 et seq. of this title.

B. An individual holding a professional bondsman license shall also provide an annual financial statement prepared by an accounting firm or individual holding a permit to practice public accounting in this state in accordance with generally accepted principles of accounting procedures showing assets, liabilities, and net worth, the annual statement to be as of a date not earlier than ninety (90) days prior to September 30. The statements shall be attested to by an unqualified opinion of the accounting firm or individual holding a permit to practice public accounting in this state that prepared the statement or statements. The statement shall be submitted annually by the last day of September.

C. An individual holding a property bondsman license shall also provide an annual county assessor's written statement stating the property's assessed value for each property used to post bonds and a written statement from any lien holder stating the current payoff amount on each lien for each property used to post bonds. The written statements shall be submitted annually by the last day of September.

D. If the license is not renewed or the renewal fee is not paid by the last day of the birth month of the bondsman, the license shall expire automatically pursuant to Section 1304 of this title. After expiration, the license may be reinstated for up to one (1) year following the expiration date. If after the one-year date the license has not been renewed,

the licensee shall be required to apply for a license as a new applicant.

E. Reinstatement fees shall be double the original fee.

Amended by Laws 2012, SB 1127, eff. November 1, 2012.

Section 1310. DENIAL, SUSPENSION, REVOCATION OR REFUSAL TO RENEW LICENSE – GROUNDS

A. The Insurance Commissioner may deny, censure, suspend, revoke, or refuse to renew any license issued under Sections 1301 through 1340 of this title for any of the following causes:

1. For any cause for which issuance of the license could have been refused;

2. Violation of any laws of this state or any lawful rule, regulation, or order of the Commissioner relating to bail;

3. Material misstatement, misrepresentation, or fraud in obtaining the license;

4. Misappropriation, conversion, or unlawful withholding of monies or property belonging to insurers, insureds, or others received in the conduct of business under the license;

5. Conviction of, or having entered a plea of guilty or nolo contendere to, any felony or to a misdemeanor involving moral turpitude or dishonesty;

6. Fraudulent or dishonest practices in conducting business under the license;

7. Failure to comply with, or violation of any proper order, rule, or regulation of the Commissioner;

8. Recommending any particular attorney-at-law to handle a case in which the bail bondsman has caused a bond to be issued under the terms of Sections 1301 through 1340 of this title;

9. When, in the judgment of the Commissioner, the licensee has, in the conduct of affairs under the license, demonstrated incompetency, or untrustworthiness, or conduct or practices rendering the licensee unfit to carry on the bail bond business or making continuance in the business detrimental to the public interest, or that the licensee is no longer in good faith carrying on the bail bond business, or that the licensee is guilty of rebating, or offering to rebate, or dividing with someone other than a licensed bail bondsman, or offering to divide commissions in the case of limited surety agents, or premiums in the case of professional bondsmen, and for this conduct is found by the Commissioner to be a source of detriment, injury, or loss to the public;

10. For any materially untrue statement in the license application;

11. Misrepresentation of the terms of any actual or proposed bond;

12. For forging the name of another to a bond or application for bond;

13. Cheating on an examination for licensure;

14. Soliciting business in or about any place where prisoners are confined, arraigned, or in custody;

15. For paying a fee or rebate, or giving or promising anything of value to a jailer, trustee, police officer, law enforcement officer, or other officer of the law, or any other person who has power to arrest or hold in custody, or to any public official or public employee in order to secure a settlement, compromise, remission, or reduction of the amount of any bail bond or estreatment thereof, or to secure delay or other advantage. This shall not apply to a jailer, police officer, or officer of the law who is not on duty and who assists in the apprehension of a defendant;

16. For paying a fee or rebating or giving anything of value to an attorney in bail bond matters, except in defense of an action on a bond;

17. For paying a fee or rebating or giving or promising anything of value to the principal or anyone in the behalf of the principal;

18. Participating in the capacity of an attorney at a trial or hearing for one on whose bond the licensee is surety;

19. Accepting anything of value from a principal, other than the premium; provided, the bondsman shall be permitted to accept collateral security or other indemnity from the principal which shall be returned immediately upon final termination of liability on the bond and upon satisfaction of all terms, conditions, and obligations contained within the indemnity agreement. Collateral security or other indemnity required by the bondsman shall be reasonable in relation to the amount of the bond;

20. Willful failure to return collateral security to the principal when the principal is entitled thereto;

21. For failing to notify the Commissioner of a change of address, as noted on the license, within five (5) days after a change is made, or failing to respond to a properly mailed notification within a reasonable amount of time;

22. For failing to file a report as required by Section 1314 of this title;

23. For filing a materially untrue monthly report;

24. For filing false affidavits regarding cancellation of the appointment of an insurer;

25. Forcing the Commissioner to withdraw deposited monies to pay forfeitures or any other outstanding judgments;

26. For failing to pay any fees to a district court clerk as are required by this title or failing to pay any fees to a municipal court clerk as are required by this title or by Section 28-127 of Title 11 of the Oklahoma Statutes;

27. For uttering an insufficient check to the Insurance Commissioner for any fees, fines or other payments received by the Commissioner from the bail bondsman;

28. For failing to pay travel expenses for the return of the defendant to custody once having guaranteed the expenses pursuant to the provisions of subparagraph d of paragraph 3 of subsection C of Section 1332 of this title; and

29. The Commissioner may also refuse to renew a licensed bondsman for failing to file all outstanding monthly bail reports, pay any outstanding fines, pay any outstanding monthly report reviewal fees owed to the Commissioner, or respond to a current order issued by the Commissioner.

B. In addition to any applicable denial, censure, suspension, or revocation of a license, any person violating any provision of Sections 1301 through 1340 of this title may be subject to a civil penalty of not less than Two Hundred Fifty Dollars ($250.00) nor more than Two Thousand Five Hundred Dollars ($2,500.00) for each occurrence. This fine may be enforced in the same manner in which civil judgments may be enforced. Any order for civil penalties entered by the Commissioner or authorized decision maker for the Insurance Department which has become final may be filed with the court clerk of Oklahoma County and shall then be enforced by the judges of Oklahoma County.

C. No bail bondsman or bail bond agency shall advertise as or hold itself out to be a surety company.

D. If any bail bondsman is convicted by any court of a violation of any of the provisions of this act, the license of the individual shall therefore be deemed to be immediately revoked, without any further procedure relative thereto by the Commissioner.

E. For one (1) year after notification by the Commissioner of an alleged violation, or for two (2) years after the last day the person was licensed, whichever is the lesser period of time, the Commissioner shall retain jurisdiction as to any person who cancels his bail bondsman's license or allows the license to lapse, or otherwise ceases to be licensed, if the person while licensed as a bondsman allegedly violated any provision of this title. Notice and opportunity for hearing shall be conducted in the same manner as if the person still maintained a bondsman's license. If the Commissioner or a hearing examiner determines that a violation of the provisions of Sections 1301 through 1340 of this title occurred, any order issued pursuant to the determination shall become a permanent record in the file of the person and may be used if the person should request licensure or reinstatement.

F. Any law enforcement agency, district attorney's office, court clerk's office, or insurer that is aware that a licensed bail bondsman has been convicted of or has pleaded

guilty or nolo contendere to any crime, shall notify the Insurance Commissioner of that fact.

Amended by Laws 2010, SB 2054, eff. November 1, 2010.

Section 1311. PENALTIES FOR VIOLATIONS

If, after investigation, it shall appear to the satisfaction of the Insurance Commissioner that a bail bondsman or insurer has been guilty of violating any of the laws or rules or regulations of this state relating to bail bonds, the Commissioner shall provide notice in writing to the bail bondsman or to the insurer. Notice to the bail bondsman or insurer shall be by mail with return receipt requested at the last-known address of the bail bondsman or insurer, in a manner and pursuant to the procedures set forth in Article II of the Administrative Procedures Act, Section 308a et seq. of Title 75 of the Oklahoma Statutes.

If the Commissioner determines that the conduct is such that it may be a detriment to the public, he may suspend the license of such bail bondsman or insurer pending hearing.

Laws 1994, eff. Sept. 1, 1994.

Section 1311.1. HEARINGS – PLACE AND NATURE – FULL STENOGRAPHIC RECORD – COSTS

A. Hearings shall be held in the Insurance Commissioner's offices or at such other place as the Commissioner may deem convenient.

B. The Commissioner shall appoint an independent hearing examiner to preside at the hearing to sit in the capacity of a quasi-judicial officer.

C. All hearings will be public and held in accordance with, and governed by, Article II of the Administrative Procedures Act, Section 308a et seq. of Title 75 of the Oklahoma Statutes.

D. If at a hearing the person presiding determines that a license which was suspended prior to the hearing pursuant to Section 1311 of this title shall be revoked or suspended, the period of revocation or suspension shall be deemed to have begun on the date the license was suspended pending the hearing.

E. The Commissioner, upon written request reasonably made by the licensed bail bondsman affected by the hearing, and at such bail bondsman's expense, shall cause a full stenographic record of the proceedings to be made by a competent court reporter.

F. The ordinary fees and costs of such hearing examiner may be assessed by the hearing examiner against the respondent, unless the respondent is the prevailing party.

Amended by Laws 2001, HB 1341, emerg. eff. July 1, 2001.

Section 1311.2. REAPPLICATION AFTER DENIAL, SUSPENSION, REVOCATION OR REFUSAL TO RENEW LICENSE

A. No individual operating under any license which has been revoked by the Insurance Commissioner shall have the right to apply for another license under this act within one (1) year from the effective date of such revocation, or, if judicial review of such revocation is sought, within one (1) year from the date of final court order or decree affirming the revocation. However, the Commissioner may authorize the application for another license under this act by such an individual prior to the end of the one-year period if the Commissioner finds that the individual meets the licensing requirements then in effect and if the Commissioner finds the circumstances for which the license was revoked no longer exists. The Commissioner shall not, however, grant a new license to any individual if he finds that the circumstances for which the previous license was revoked still exist or are likely to recur.

B. If a license as bail bondsman as to the same individual has been revoked at two separate times, the Commissioner may not thereafter grant or issue any license under this act as to such individual unless such individual can meet the licensing qualifications then in effect and if the Commissioner finds the circumstances for which the license was revoked no longer exists.

C. During the period of suspension, or after revocation of the license and prior to being issued a new license, the former licensee shall not engage in or attempt to profess to engage in any transaction or business for which a license is required under this act.

D. Upon suspension, revocation or refusal to renew or continue the license of a bail bondsman, the Commissioner may at the same time likewise suspend or revoke all other insurance agent licenses held by the licensee under the insurance laws of this state, if the Commissioner determines that such suspension or revocation is in the best interest of the public.

E. In case of the suspension or revocation of license of any bail bondsman, the license of any and all bail bondsmen who are members of a bail bond agency, whether incorporated or unincorporated, and who knowingly are parties to the act which formed the ground for the suspension or revocation may likewise be suspended or revoked for the same period as that of the offending bail bondsman; but this shall not prevent any bail bondsman, except the one whose license was first suspended or revoked or the bondsman member of the agency who was a knowing participant, from being licensed as a member of some other bail bond agency.

F. Though issued to a licensee, all certificates of licenses issued under this act are at all times the property of this state, and upon notice of any suspension, revocation, refusal to renew, expiration or other termination of the license, the licensee or other person having either the original or copy of the license shall promptly deliver the certificate of license or copy thereof to the Commissioner for cancellation.

G. As to any certificate of license lost, stolen or destroyed while in the possession of any such licensee or person, the Commissioner may accept in lieu of return of the certificate, the affidavit of the licensee or other person responsible for or involved in the safekeeping of such certificate, concerning the facts of such loss, theft or destruction. Willful falsification of any such affidavit shall, upon conviction, be subject to punishment as for perjury.

H. This section shall not be deemed to require the delivery to the Commissioner of any certificate of license which, as shown by specific date of expiration on the face of the license, has already expired, unless such delivery has been requested by the Commissioner.

Amended by Laws 1987, eff. Nov. 1, 1987.

Section 1311.3. UNLAWFUL TO PERFORM ACTS AS A BAIL BONDSMAN WITHOUT VALID LICENSE

A. It shall be unlawful for any person whose license to act as a bail bondsman has been suspended, revoked, surrendered, or refused, to do or perform any of the acts of a bail bondsman. Any person convicted of violating the provisions of this subsection shall be guilty of a felony and shall be punished by a fine in an amount not exceeding Five Thousand Dollars ($5,000.00).

B. It shall be unlawful for any bail bondsman to assist, aid, or conspire with a person whose license as a bail bondsman has been suspended, revoked, surrendered, or refused, to engage in any acts as a bail bondsman. Any person convicted of violating the provisions of this subsection shall be guilty of a felony and shall be punished by a fine in an amount not to exceed Five Thousand Dollars ($5,000.00).

Added by Laws 2011, SB 965; Added by Laws 2011, HB 1243, emerg. eff. June 20, 2011.

Section 1312. APPEALS

Any applicant for license as a bail bondsman whose application has been denied or whose license shall have been censured, suspended or revoked, or renewal thereof denied or a fine levied, shall have the right of appeal from such final order of the Commissioner thereon by filing a petition in the district court of Oklahoma County. Such judicial review shall be as prescribed by Sections 318 through 323 of Title 75 of the Oklahoma Statutes.

Laws 1992, eff. Sept. 1, 1992.

Section 1313.

Repealed by Laws 1984, SB 433, emerg. eff. May 23, 1984.

Section 1314. RECEIPT FOR COLLATERAL – DUTIES – REPORTS – RECORDS – FEES

A. When a bail bondsman or managing general agent accepts collateral, the bail bondsman or managing general agent shall give a written receipt for same, and this receipt shall give in detail a full description of the collateral received. A description of the collateral shall be listed on the undertaking by affidavit. All property taken as collateral, whether personal, intangible or real, shall be receipted for and deemed, for all purposes, to be in the name of, and for the use and benefit of, the surety company or licensed professional bondsman, as the case may be. Every receipt, encumbrance, mortgage or other evidence of the custody, possession or claim shall facially indicate that it has been taken or made on behalf of the surety company or professional bondsman through its authorized agent, the individual licensed bondsman or managing general agent who has transacted the undertaking with the bond principal. Any mortgage or other encumbrance against real property taken under the provisions of this section which does not indicate beneficial ownership of the claim to be in favor of the surety company or professional bondsman shall be deemed to constitute a cloud on the title to real estate and shall subject the person filing, or causing same to be filed, in the real estate records of the county, to a penalty of treble damages or One Thousand Dollars ($1,000.00), whichever is greater, in an action brought by the person, organization or corporation injured thereby. For collateral taken, or liens or encumbrances taken or made pursuant to the provisions of this section, the individual bondsman or managing general agent taking possession of the property or making the lien, claim or encumbrance shall do so on behalf of the surety company or professional bondsman, as the case may be, and the individual licensed bondsman shall be deemed to act in the capacity of fiduciary in relation to both:

1. The principal or other person from whom the property is taken or claimed against; and
2. The surety company or professional bondsman whose agent is the licensed bondsman.

As fiduciary and bailee for hire, the individual bondsman shall be liable in criminal or civil actions at law for failure to properly receipt or account for, maintain or safeguard, release or deliver possession upon lawful demand, in addition to any other penalties set forth in this subsection. No person who takes possession of property as collateral pursuant to this section shall use or otherwise dissipate the asset, or do otherwise with the property than to safeguard and maintain its condition pending its return to its lawful owner, or deliver to the surety company or professional bondsman, upon lawful demand pursuant to the terms of the bailment.

B. Every licensed bondsman shall file monthly electronically with the Insurance Commissioner and on forms approved by the Commissioner as follows:

1. A monthly report showing every bond written, amount of bond, whether released or revoked during each month, showing the court and county, and the style and number of the case, premiums charged and collateral received; and

2. Professional bondsmen shall submit electronic monthly reports showing total current liabilities, all bonds written during the month by the professional bondsman and by any licensed bondsman who may countersign for the professional bondsman, all bonds terminated during the month, and the total liability and a list of all bondsmen currently employed by the professional bondsmen.

Monthly reports shall be submitted electronically to the Insurance Commissioner by the fifteenth day of each month. The records shall be maintained by the Commissioner as public records.

C. Every licensee shall keep at the place of business of the licensee the usual and customary records pertaining to transactions authorized by the license. All of the records shall be available and open to the inspection of the Commissioner at any time during business hours during the three (3) years immediately following the date of the transaction. The Commissioner may require a financial examination or market conduct survey during any investigation of a licensee.

D. Each bail bondsman shall submit each month with the monthly report of the bondsman, a reviewal fee equal to two-tenths of one percent (2/10 of 1%) of the new liability written for that month. The fee shall be payable to the Insurance Commissioner who shall deposit same with the State Treasurer.

Amended by Laws 2011, SB 965; Amended by Laws 2011, HB 1243, emerg. eff. June 20, 2011.

Section 1315. PERSONS OR CLASSES PROHIBITED AS BONDSMEN – EXEMPTIONS

A. The following persons or classes shall not be bail bondsmen and shall not directly or indirectly receive any benefits from the execution of any bail bond:

1. Persons convicted of, or who have pled guilty or nolo contendere to, any felony or to a misdemeanor involving dishonesty or moral turpitude;

2. Jailers;

3. Police officers;

4. Committing judges;

5. Municipal or district court judges;

6. Prisoners;

7. Sheriffs, deputy sheriffs and any person having the power to arrest or having anything to do with the control of federal, state, county or municipal prisoners;

8. Any person who possesses a permit pursuant to the provisions of Section 163.11 of Title 37 of the Oklahoma Statutes or is an officer, director or stockholder of any corporation holding such a permit;

9. Any person who is an agent or owner of any establishment at which low-point beer as defined by Section 163.2 of Title 37 of the Oklahoma Statutes is sold for on-premises consumption;

10. Any person who holds any license provided for in Section 518 of Title 37 of the Oklahoma Statutes or is an agent or officer of any such licensee, except for an individual holding an employee license pursuant to paragraph 20 of subsection A of Section 518 of Title 37 of the Oklahoma Statutes;

11. Any person who holds any license or permit from any city, town, county, or other governmental subdivision for the operation of any private club at which alcoholic beverages are consumed or provided; and

12. Any person or agent of a retail liquor package store.

B. This section shall not apply to a sheriff, deputy sheriff, police officer, or officer of the law who is not on duty and who assists in the apprehension of a defendant.

C. The provisions of this section shall not apply to persons possessing permits or licenses pertaining to low-point beer or alcoholic beverages, as defined in Sections 163.2 and 506 of Title 37 of the Oklahoma Statutes, which were issued prior to May 23, 1984. No one shall be permitted to maintain an office for conducting bail bonds business where low-point beer or alcoholic beverages are sold for on-premises consumption.

Amended by Laws 2012, SB 1127, eff. November 1, 2012.

Section 1316. SIGNING IN BLANK PROHIBITED – INDICATION OF PREMIUM CHARGE – RECEIPT – POWER OF ATTORNEY – INITIAL FILING FEE

A.

1. A bail bondsman shall neither sign nor countersign in blank any bond, nor shall the bondsman give a power of attorney to, or otherwise authorize, anyone to countersign the name of the bail bondsman to bonds unless the person so authorized is a licensed surety bondsman or managing general agent directly employed by a licensed professional bondsman giving the power of attorney. The professional bondsman shall submit to the Insurance Commissioner the agreement between the professional bondsman and the employed bondsman. The agreement shall be submitted to the Commissioner prior to the employed bondsman writing bonds on behalf of the professional. The professional bondsman shall notify the Commissioner whenever any agreement is canceled.

If the bondsman surrenders the professional qualification, or the professional qualification is suspended or revoked, or if an insurer authorized to write bail bond business surrenders their bail surety line of authority, or this line of authority is suspended or revoked, then the Commissioner shall suspend the appointment of all of the bail agents of the professional bondsman or insurer. The Commissioner shall immediately notify any bail agent whose license is affected and the court clerk of the agent's resident county upon the suspension or revocation of the qualification of the professional bondsman. If the professional qualification or the bail surety line of authority is reinstated within twenty-four (24) hours, the Commissioner shall not be required to suspend the bail agent appointments. If the Commissioner reinstates the professional qualification within twenty-four (24) hours, the Commissioner shall also reinstate the appointment of the bail agents of the professional bondsman or bail insurer. If more than twenty-four (24) hours elapse following the suspension or revocation, then the professional bondsman or insurer shall submit new agent appointments to the Commissioner.

2. Bail bondsmen shall not allow other licensed bondsmen to present bonds that have previously been signed and completed. The individual that presents the bond shall sign the form in the presence of the official that receives the bond.

B. Premium charged shall be indicated on the appearance bond prior to the filing of the bond.

C. A bail bondsman shall provide the indemnitors with a proper receipt which shall include fees, premium or other payments and copies of any agreements executed relating to the appearance bond.

D. All surety bondsmen or managing general agents shall attach a completed power of attorney to the appearance bond that is filed with the court clerk on each bond written.

E. Any bond written in this state shall contain the name and last-known mailing address of the bondsman and, if applicable, of the insurer.

Amended by Laws 2010, SB 2054, eff. November 1, 2010.

Section 1317. NOTICE OF APPOINTMENT – FILING FEE – NOTICE OF TERMINATION

A. Every surety or professional bondsman who appoints a surety bondsman or managing general agent in the state, shall give notice thereof to the Insurance Commissioner. The filing fee for appointment of each surety bondsman or managing general agent shall be Ten Dollars ($10.00), payable to the Commissioner and shall be submitted with the appointment. The appointment shall remain in effect until the

surety or professional bondsman submits a notice of cancellation to the Commissioner, the license of the bail bondsman expires, or the Commissioner cancels the appointment. The Commissioner may cancel a bail surety appointment if the license of the bondsman is suspended, revoked or nonrenewed. If the surety changes the liability limitations of the surety bondsman or the managing general agent, or any other provisions of the appointment, the surety shall submit an amended appointment form and a filing fee of Ten Dollars ($10.00) payable to the Commissioner.

B. A surety terminating the appointment of a surety bondsman or managing general agent immediately shall file written notice thereof with the Commissioner, together with a statement that it has given or mailed notice to the surety bondsman or managing general agent. The notice filed with the Commissioner shall state the reasons, if any, for the termination.

C. Prior to issuance of a new surety appointment for a surety bondsman or managing general agent, the bondsman or agent shall file an affidavit with the Commissioner stating that no forfeitures are owed to any court, no fines are owed to the insurance department, and no premiums or indemnification for forfeitures or fines are owed to any insurer. This provision shall not require that all outstanding liabilities have been exonerated, but may provide that the liabilities are still being monitored by the bondsman or agent.

D. Every bail bondsman who negotiates and posts a bond shall, in any controversy between the defendant, indemnitor, or guarantor and the bail bondsman or surety, be regarded as representing the surety. This provision shall not affect the apparent authority of a bail bondsman as an agent for the insurer.

Amended by Laws 2010, SB 2054, eff. November 1, 2010.

Section 1318. DISCONTINUANCE OF WRITING BAILBONDS

A. Any bail bondsman who discontinues writing bail bonds during the period for which he is licensed shall notify the clerks of the district courts and the sheriffs with whom he is registered and return his license to the Commissioner for cancellation within thirty (30) days from such discontinuance. Prior to the discontinuance of licensure, the bail bondsman shall make and submit to the Commissioner a list of all outstanding bonds and obtain a release for each bond that he has written from the court clerk or sheriff of each county in which a bond is written or an affidavit from another bondsman stating that such bonds have been transferred to his care.

B. Any person convicted of violating this section shall be guilty of a misdemeanor and upon conviction thereof, be punished by a fine of not less than One Hundred Dollars ($100.00) nor more than One Thousand Dollars ($1,000.00), or by imprisonment for not less than six (6) months nor more than one (1) year, or by both such fine and imprisonment.

Amended by Laws 1984, emerg. eff. May 23, 1984.

Section 1319.

Repealed by Laws 1987, HB 1033, eff. November 1, 1987.

Section 1320. REGISTRATION REQUIREMENT – CERTIFIED COPY OF APPOINTMENT – LIMITATION ON NUMBER OF BONDS WRITTEN

A. No bail bondsman shall become a surety on an undertaking unless he has first registered his license in the office of the sheriff and with the clerk of the district court in the county in which the bondsman resides or offices, but not both. In the county in which a bondsman registers his license, he shall provide the court clerk with proof that he is a resident of said county or that he offices in said county. The court clerk of the county shall provide a list of bondsmen permitted to write surety in that county to the judges and law enforcement offices of that county. In any county not having a licensed bondsman authorized to do business within said county, the court having jurisdiction shall allow and fix bail.

A surety bondsman shall also file a certified copy of his appointment by power of attorney from the insurer which he represents as agent with each of said officers. A fee of Ten Dollars ($10.00) shall be paid to the district court clerk for each county in which the bail bondsman registers his license. The fee shall be payable annually by the date of license renewal. The clerk of the district court and the sheriff shall not permit the registration of a bail bondsman unless such bondsman is currently licensed by the Insurance Commissioner under the provisions of Section 1301 et seq. of this title.

B. Notwithstanding the foregoing provisions of this section, a bondsman may write bonds on no more than ten defendants per year in each of the remaining seventy-six counties of this state in which the bondsman cannot register his license. Provided, however, a bondsman shall not be limited to writing bonds on only ten defendants per year in a county which does not have a licensed bondsman registered in said county. The bondsman shall advise the court clerk of each such county in writing of his intention to write bonds in the county and shall file a certified copy of his license with and pay a fee of Ten Dollars ($10.00) to each such court clerk.

Amended by Laws 1992, SB 800, eff. September 1, 1992.

Section 1321. QUALIFICATIONS OF SURETIES

Each and every surety for the release of a person on bail shall be qualified as:

1. An insurer and represented by a surety bondsman or bondsmen; or
2. A professional bondsman properly qualified and approved by the Insurance Commissioner; or
3. A cash bondsman; or
4. A property bondsman; or

5. A natural person who has reached the age of twenty-one (21) years, a citizen of the United States and a bona fide resident of Oklahoma for a period of six (6) months immediately last past and who holds record title to property in Oklahoma, cash or other things of value, acceptable to the proper authority approving the bail bond.

Amended by Laws 1987, eff. Nov. 1, 1987.

Section 1322. AFFIDAVIT AS TO UNDERTAKING

A. Every bondsman shall file with the undertaking an affidavit stating whether or not the bondsman or anyone for the use of the bondsman has been promised or has received any security or consideration for the undertaking, and if so, the nature and description of security and amount thereof, and the name of the person by whom the promise was made or from whom the security or consideration was received. Any willful misstatement in the affidavit relating to the security or consideration promised or given shall render the person making it subject to the same prosecution and penalty as one who commits the felony of perjury.

B. An action to enforce any indemnity agreement shall not lie in favor of the surety against the indemnitor, except with respect to agreements set forth in the affidavit. In an action by the indemnitor against the surety to recover any collateral or security given by the indemnitor, the surety shall have the right to retain only the security or collateral as it mentioned in the affidavit required by this section.

C. If security or consideration other than that reported on the original affidavit is received after the affidavit is filed with the court clerk, an amended affidavit shall be filed with the court clerk indicating the receipt of security or consideration.

D. If a bondsman accepts a mortgage on real property as collateral on a bond, the bondsman shall file a copy of the mortgage with the bond within thirty (30) days of receipt of the mortgage. The Commissioner shall have the authority to extend or waive this requirement.

Amended by Laws 2010, SB 2054, eff. November 1, 2010.

Section 1323. CASH BOND

When the defendant has been admitted to bail, he, or another in his behalf, may make a cash bond by depositing with an official authorized to take bail, a sum of money, or nonregistered bonds of the United States, or of the state, or of any county, city or town within the state, equal in market value to the amount of such bail, together with his personal undertaking and an undertaking of such other person, if the money or bonds are deposited by another. Upon delivery to the official, in whose custody the defendant is, of a certificate of such deposit, he shall be discharged from custody in the cause.

Laws 1965, eff. Jan. 1, 1966.

Section 1324. PROPERTY BOND

Where the undertaking is a property bond, whether posted by a bail bondsman, the defendant personally, or by any other person, said bond shall give the legal description of the property, the assessed valuation, the amount of encumbrances, if any, and the status of the legal title, all by affidavit. Any property located within the state wherein the bail is allowed, that is subject to execution shall be accepted for security on a property bond for the market value of the property. Market value is defined to be four times the assessed valuation of the property as recorded on the tax rolls, less any encumbrances thereon; provided, that homesteads may be accepted as security for appearance if the homestead exemption is waived in writing. Such waiver shall be verified and executed by the spouse, if any. The property listed upon any property bond or bonds will be security on said bonds up to the aggregate amounts as follows:

A. In the event of bonds written by a licensed property bondsman; four times the market value of said property.

B. All other property bonds; in the face amount of the market value of said property.

The court clerk, upon the approval of a property bond, shall forthwith file a certified copy of said bond in the office of the county clerk in which the property is located, transmitting to the county clerk the filing fee which will be paid by the person executing said bond. The county clerk shall index said bond upon his tract index as a lien against said described property, and such bond shall be a lien upon the real estate described therein until a certificate discharging said bond shall be filed in the office of the county clerk. Said lien shall be superior to any conveyance, encumbrance or lien thereafter pertaining to said property. When said bond shall have been discharged, the clerk of said court shall issue to the surety a certificate of discharge describing the bond and the real property, which shall, upon filing with the county clerk and the payment of the filing fee, be recorded in the tract index. An abstract company preparing an abstract upon such real estate, shall be required to list in said abstract only the undischarged liens and shall not list any discharged liens.

Laws 1970, emerg. eff. April 13, 1970.

Section 1325. SUBSTITUTION OF BAIL

Bail may be substituted, without additional premium being charged, by the defendant or bondsman, at any time before a breach of the undertaking, by substituting any other proper and sufficient bond of like value as provided herein. The official taking the new bail shall make an order as follows:

1. Where money had been deposited, that the money be refunded to the person depositing the same; and

2. Where property had been pledged, that a certificate of discharge be issued

and the lien previously filed be released.

The original undertakings of whatever nature shall be canceled and the new undertaking shall be substituted therefor.

Laws 1993, eff. Sept. 1, 1993.

Section 1326. DEFECTS, OMISSIONS, IRREGULARITIES, ETC.

A. No undertaking shall be invalid, nor shall any person be discharged from his undertaking, nor a forfeiture thereof be stayed nor shall judgment thereon be stayed, set aside or reversed, the collection of any such judgment be barred or defeated by reason of any defect of form, omission or recital or of condition, failure to note or record the default of any principal or surety, or because of any other irregularity, or because the undertaking was entered into on Sunday or other holiday, if it appears from the tenor of the undertaking before what judge or at what court the principal was bound to appear, and that the official before whom it was entered into was legally authorized to take it and the amount of bail is stated.

B. If no day is fixed for the appearance of the defendant, or an impossible day or a day in vacation, the undertaking, if for his appearance before a judge for a hearing, shall bind the defendant to appear in ten (10) days from the receipt of notice thereof to the defendant, his counsel, and any surety or bondsman on the undertaking; and if for his appearance in a court for trial, shall bind the defendant so to appear on the first day of the next term of court which shall commence more than three (3) days after the giving of the undertaking.

C. The liability of a person on an undertaking shall not be affected by reason of the lack of any qualifications, sufficiency or competency provided in the criminal procedure law, or by reason of any other agreement that is expressed in the undertaking, or because the defendant has not joined in the undertaking.

Amended by Laws 1984, emerg. eff. May 23, 1984.

Section 1327. SURRENDER OF DEFENDANT – HOLD ORDER – EXONERATION OF BONDSMAN AND INSURER

A. At any time before there has been a breach of the undertaking in any type of bail provided herein, the surety or bondsman may surrender the defendant, or the defendant may surrender himself or herself, to the official to whose custody the defendant was committed at the time bail was taken, or to the official into whose custody the defendant would have been given had he or she been committed. The defendant may be surrendered without the return of premium for the bond if he or she has been guilty of nonpayment of premium, changes address without notifying his or her bondsman, conceals himself or herself, leaves the jurisdiction of the court without the permission of his or her bondsman, or violates his or her contract with

the bondsman in any way that does harm to the bondsman, or the surety, or violates his or her obligation to the court. When a bondsman or surety surrenders a defendant pursuant to this subsection, the bondsman or surety shall file written notification of the surrender. After surrender, and upon filing of written notification of the surrender, the bond shall be exonerated and the clerk shall enter a minute in the case exonerating the bond.

B. If the defendant has been placed in custody of another jurisdiction, the district attorney shall direct a hold order to the official, judge or law enforcement agency where the defendant is in custody. All reasonable expenses accrued in returning the defendant to the original court shall be borne by the bondsman who posted the bond with that court. Upon application, the bond in the original court shall be exonerated when the hold order is placed and upon proof of payment of expenses by the bondsman.

C. If the defendant has been arrested on new charges and is in the custody of the same jurisdiction in which the bondsman or surety has posted an appearance bond or bonds for the defendant, and the bond or bonds have not been exonerated, and certified copies of bonds are not reasonably available, the bondsman or surety may recommit the defendant to be held in custody on the charges for which the bondsman or surety has previously posted appearance bonds thereon, in accordance with the following procedure:

1. On a Recommitment of Defendant by Bondsman form approved by the Administrative Office of the Courts, the bondsman or surety shall personally affix his or her signature to an affidavit attesting to the following:

a. the defendant is presently in the custody of the jurisdiction in which the bondsman or surety has posted a bond or bonds,

b. the case number, if any, assigned to each bond,

c. that the bond or bonds have not been exonerated, and

d. the specific charges and bond amount or amounts;

2. The bondman or surety shall present the Recommitment of Defendant by Bondsman form to the official in whose custody the defendant is being held, and the official shall detain the defendant in his or her custody, thereon, as upon a commitment, and by a certificate in writing acknowledging the surrender; and

3. When a bondsman or surety recommits a defendant pursuant to this subsection, the bondsman or surety shall file a written notification thereof to the court, and after such notification, the bond or bonds shall be exonerated, and the clerk shall enter a minute in the case exonerating the bond or bonds.

D. When a defendant does appear before the court as required by law and enters a plea of guilty or nolo contendere, is sentenced or a deferred sentence is granted as

provided for in Section 991c of Title 22 of the Oklahoma Statutes, in such event the undertaking and bondsman and insurer shall be exonerated from further liability.

Amended by Laws 2005, SB 772, eff. November 1, 2005.

Section 1328. PROCEDURE FOR SURRENDER OF DEFENDANT

The person desiring to make a surrender of the defendant shall procure a certified copy of the undertakings and deliver them together with the defendant to the official in whose custody the defendant was at the time bail was taken, or to the official into whose custody he or she would have been given had he or she been committed, who shall detain the defendant in his or her custody thereon, as upon a commitment, and by a certificate in writing acknowledge the surrender.

Upon the presentation of certified copy of the undertaking and the certificate of the official, the court before which the defendant has been held to answer or the court in which the preliminary examination, indictment, information or appeal, as the case may be is pending shall, upon notice of three (3) days given by the person making the surrender to the prosecuting officer of the court having jurisdiction of the offense, together with a copy of the undertakings and certificate, order that the obligors be exonerated from liability on their undertakings; and, if money has been deposited as bail, that such money or bonds be refunded. If property pledged, a certificate of exoneration be issued and the lien previously filed be released and the undertakings of whatever nature be canceled.

If certified copies of bonds are not reasonably available, the bondsman or surety may recommit the defendant to be held in custody on the charges for which the bondsman or surety has previously posted appearance bonds thereon in accordance with the following procedure:

1. On a Recommitment of Defendant by Bondsman form approved by the Administrative Office of the Courts, the bondsman or surety shall personally affix his or her signature to an affidavit attesting to the following:

    a. the bondsman or surety has posted a bond or bonds for the defendant and is hereby presented to the official in whose custody the defendant was at the time bail was taken,

    b. the case number, if any, assigned to each bond, and

    c. the specific charges and bond amount or amounts;

2. The bondsman or surety shall present the Recommitment of Defendant by Bondsman form to the official in whose custody the defendant is being surrendered, and the official shall detain the defendant in his or her custody thereon, as upon a commitment, and by a certificate in writing acknowledging the surrender; and

3. When a bondsman or surety recommits a defendant pursuant to this subsection, the bondsman or surety shall file a written notification thereof to the courts, and after such notification, the bond or bonds shall be exonerated and the clerk shall enter a minute in the case exonerating the bond or bonds.

Amended by Laws 2005, SB 772, eff. November 1, 2005.

Section 1329. ARREST

For the purpose of surrendering the defendant, the surety may arrest him before the forfeiture of the undertaking, or by written authority endorsed on a certified copy of the undertaking, may empower any peace officer to make arrest, first paying the lawful fees therefor. In addition, the bondsman may surrender the defendant by following the commitment procedures as set forth in subsection C of Section 1327 of this title.

Amended by Laws 2005, SB 772, eff. November 1, 2005.

Section 1330.

Repealed by Laws 1984, SB 433, emerg. eff. May 23, 1984.

Section 1331. PROPERTY BOND – FORFEITURE – FILING FEE – COLLECTION OF FORFEITURE

A. If the undertaking is a property bond, the clerk shall record the order and judgment of forfeiture in the proper records of said county. Any filing fees shall be paid by the party filing such property bond.

B. Collection of such property bond forfeiture shall be accomplished by the proper court authorities.

Amended by Laws 1984, emerg. eff. May 23, 1984.

Section 1332. FORFEITURE PROCEDURE

A. If there is a breach of an undertaking, the court before which the cause is pending shall issue an arrest warrant for the defendant and declare the undertaking and any money, property, or securities that have been deposited as bail, forfeited on the day the defendant failed to appear. In the event of the forfeiture of a bail bond the clerk of the trial court shall, within thirty (30) days after the forfeiture, by mail with return receipt requested, mail a true and correct copy of the order and judgment of forfeiture to the bondsman, and if applicable, the insurer, whose risk it is, and keep at least one copy of the order and judgment of forfeiture on file; provided, the clerk shall not be required to mail the order and judgment of forfeiture to the bondsman or insurer if, within fifteen (15) days from the date of forfeiture, the defendant is returned to custody, the bond is reinstated by the court with the bondsman's approval, or the order of forfeiture is vacated or set aside by the court. Failure of the clerk of the trial court to comply with

the thirty-day notice provision in this subsection shall exonerate the bond by operation of law.

B. The order and judgment of forfeiture shall be on forms prescribed by the Administrative Director of the Courts.

C.

1. The bail bondsman shall have ninety (90) days from receipt of the order and judgment of forfeiture from the court clerk or mailing of the notice if no receipt is made, to return the defendant to custody.

2. When the court record indicates that the defendant is returned to custody in the jurisdiction where forfeiture occurred, within the ninety-day period, the court clerk shall enter minutes vacating the forfeiture and exonerating the bond. If the defendant has been timely returned to custody, but this fact is not reflected by the court record, the court shall vacate the forfeiture and exonerate the bond.

3. For the purposes of this section, "return to custody" means:

a. the return of the defendant to the appropriate Oklahoma law enforcement agency by the bondsman,

b. an appearance of the defendant in open court in the court where charged,

c. arrest or incarceration within this state of the defendant by law enforcement personnel, or

d. arrest or incarceration of the defendant in any other jurisdiction, provided the bondsman has requested that a hold be placed on the defendant in the jurisdiction wherein the forfeiture lies and has guaranteed reasonable travel expenses for the return of the defendant.

4. In addition to the provisions set forth in paragraphs 2 and 3 of this subsection, the bond shall be exonerated by operation of law in any case in which:

a. the bondsman has requested in writing of the sheriff's department in the county where the forfeiture occurred that the defendant be entered into the computerized records of the National Crime Information Center, and the request has not been honored within fourteen (14) business days of the receipt of the written request by the department, or

b. the defendant has been arrested outside of this state and the court record shows the prosecuting attorney has declined to proceed with extradition.

5. The court may, in its discretion, vacate the order of forfeiture and exonerate

the bond where good cause has been shown for:

a. the defendant's failure to appear, or

b. the bondsman's failure to return the defendant to custody within ninety (90) days.

D.

1. If, within ninety (90) days from receipt of the order and judgment of forfeiture from the court clerk, or mailing of the notice if no receipt is made, the defendant is not returned to custody, or the forfeiture has not been stayed, the bondsman and if applicable, the insurer whose risk it is, shall deposit cash or other valuable securities in the face amount of the bond with the court clerk ninety-one (91) days from receipt of the order and judgment of forfeiture from the court clerk, or mailing of the notice if no receipt is made; provided, this provision shall not apply if the defendant has been returned to custody within the ninety-day period and the court has failed to vacate the forfeiture pursuant to paragraphs 2 through 5 of subsection C of this section.

2. After the order and judgment has been paid, the bondsman and if applicable, the insurer, whose risk it is, shall have one year from the date payment is due to return the defendant to custody as defined by paragraph 3 of subsection C of this section. In the event the defendant is returned to custody and all expenses for the defendant's return have been paid by the bondsman or insurer, the bondsman's or insurer's property shall be returned; provided, the request for remitter be made by motion filed within one year from the date payment is due.

3. If the additional cash or securities are not deposited with the court clerk on or before the ninety-first day after the date of service of the order and judgment of forfeiture from the court clerk, or mailing of the notice if no receipt is made, then the court clerk shall notify the Insurance Commissioner by sending a certified copy of the order and judgment of forfeiture and proof that the bondsman and, if applicable, the insurer have been notified by mail with return receipt requested.

4. The Insurance Commissioner shall:

a. in the case of a surety bondsman, immediately cancel the license privilege and authorization of the insurer to do business within the State of Oklahoma and cancel the appointment of all surety bondsman agents of the insurer who are licensed by Section 1301 et seq. of this title, and

b. in the case of a professional bondsman, withdraw the face amount of the said forfeiture from the deposit provided in Section 1306 of this title. The Commissioner shall then immediately direct the

professional bondsman, by mail with return receipt requested, to make additional deposits to bring the original deposit to the required level. Should the professional bondsman, after being notified, fail to make an additional deposit within ten (10) days from the receipt of notice, or mailing of notice if no receipt is made, the license shall be revoked and all sums presently on deposit shall be held by the Commissioner to secure the face amounts of bonds outstanding. Upon release of the bonds, any amount of deposit in excess of the bonds shall be returned to the bondsman; provided, the bail bondsman shall have had notice as required by the court, at the place of the bondsman's business, of the trial or hearing of the defendant named in the bond. The notice shall have been at least ten (10) days before the required appearance of the defendant, unless the appearance is scheduled at the time of execution of the bond. Notwithstanding the foregoing, the bondsman shall be deemed to have had notice of the trial or hearing if the defendant named in the bond shall have been recognized back in open court to appear at a date certain for the trial or hearing.

5. If the actions of any bail bondsman force the Insurance Commissioner to withdraw monies, deposited pursuant to Section 1306 of this title, to pay past due executions more than two (2) times in a consecutive twelve-month period, then the license of the professional bondsman shall, in addition to other penalties, be suspended automatically for one (1) year or until a deposit equal to all outstanding forfeitures due is made. The deposit shall be maintained until the Commissioner deems it feasible to reduce the deposit. In no case shall an increased deposit exceed two (2) years unless there is a recurrence of withdrawals as stated herein.

E.

1. If the defendant's failure to appear was the result of the defendant's death or of being in the custody of a court other than the court in which the appearance was scheduled, forfeiture shall not lie. Upon proof to the court that the bondsman paid the order and judgment of forfeiture without knowledge that the defendant was deceased or in custody of another court on the day the defendant was due to appear, and all expenses for the defendant's return have been paid by the bondsman, the bondsman's property shall be returned.

2. Where the defendant is in the custody of another court, the district attorney or municipal attorney shall direct a hold order to the official, judge, court or law enforcement agent wherein the defendant is in custody; provided, that all expenses accrued as a result of returning the custody of the defendant shall be borne by the bondsman.

F. The district attorney or municipal attorney shall not receive any bonuses or other monies or property for or by reason of services or actions in connection with or collection of bond forfeitures under the provisions of Section 1301 et seq. of this title, except that the court may award a reasonable attorney fee in favor of the prevailing party for legal services in any civil action or proceeding to collect upon a judgment of forfeiture.

G. The above procedures shall be subject to the bondsman's rights of appeal. The bondsman or insurer may appeal an order and judgment of forfeiture pursuant to the procedures for appeal set forth in Section 951 et seq. of Title 12 of the Oklahoma Statutes. To stay the execution of the order and judgment of forfeiture, the bondsman or insurer shall comply with the provisions set forth in Section 990.4 of Title 12 of the Oklahoma Statutes.

H. For municipal courts of record, the above procedures are criminal in nature and ancillary to the criminal procedures before the trial court and shall be subject to the bondsman's right of appeal. The bondsman or insurer may appeal an order and judgment of forfeiture by the municipal courts of record to the Court of Criminal Appeals.

I. Upon a motion to the court, any person executing a bail bond as principal or as surety shall be exonerated after three (3) years have elapsed from the posting of the bond, unless a judgment has been entered against the surety or the principal for the forfeiture of the bond, or unless the court grants an extension of the three-year time period for good cause shown, upon motion by the prosecuting attorney.

Amended by Laws 2008, SB 1797, eff. November 1, 2008.

Section 1332.1 PERSONS ALLOWED TO RETURN DEFENDANT AFTER BREACH OF UNDERTAKING

For the purpose of surrendering a defendant after a breach of the undertaking, the following persons may return the defendant to custody:

1. A bondsman or surety;
2. An employee of a bondsman or surety; or
3. A peace officer acting within the peace officer's jurisdiction.

Added by Laws 1998, emerg. eff. April 29, 1998.

Section 1333. ENFORCEMENT OF LIABILITY

All liability of the bondsman may be enforced on motion without necessity of an independent action if conformance with the foregoing is shown.

Laws 1965, eff. Jan. 1, 1966.

Section 1334. BAIL ON PERSONAL RECOGNIZANCE

A. Any person in custody before a court or magistrate of the State of Oklahoma subject to discretion of the court may be admitted to bail on his personal recognizance subject to such conditions as the court or magistrate may reasonably prescribe to assure his appearance when required.

B. When a person is admitted to bail on his personal recognizance, the court or magistrate may determine an amount of money, property, or securities which shall be paid or forfeited as a penalty by the defendant for failure to comply with the terms of his admission to bail on personal recognizance. This penalty shall be in addition to the penalties provided for in Section 1335 of this title.

C. Any person admitted to bail as herein provided shall be fully appraised by the court or magistrate of the penalties provided for failure to comply with the terms of his recognizance and, upon a failure of compliance, a warrant for the arrest of such person shall be issued forthwith.

Amended by Laws 1994, SB 604, eff. September 1, 1994.

Section 1335. PENALTY FOR INCURRING FORFEITURE OR FAILING TO COMPLY WITH PERSONAL RECOGNIZANCE

Whoever, having been admitted to bail for appearance before any district court in the State of Oklahoma, (1) incurs a forfeiture of the bail and willfully fails to surrender himself within thirty (30) days following the date of such forfeiture, or (2) willfully fails to comply with the terms of his personal recognizance, shall be guilty of a felony and shall be fined not more than Five Thousand Dollars ($5,000.00) or imprisoned not more than two (2) years, or both.

Amended by H.B. 1009X § 372, emerg. eff. July 1, 1999.

Section 1335.1. UNLAWFUL TO PROVIDE FALSE INFORMATION – PENALTIES

It shall be unlawful for any principal, person in custody or defendant, or indemnitor to provide false information, including identity and physical address, on any undertaking or indemnification agreement. Violation of this section shall be a misdemeanor punishable by imprisonment in the county jail for a term of not more than one (1) year, or by a fine of not more than One Thousand Dollars ($1,000.00), or by both such imprisonment and fine.

Added by Laws 2006, HB 2513, eff. November 1, 2006.

Section 1336. PENALTY

Any person violating any of the provisions of this act relating to bondsman shall, upon conviction, be fined not more than Five Thousand Dollars ($5,000.00) for each

offense, or imprisoned in the county jail for not more than one (1) year, or by both such fine and imprisonment.

Any person acting as a bondsman without a license shall be subject to the penalties provided in this section.

Laws 1992, eff. Sept. 1, 1992.

Section 1337. DISPOSITION OF FEES, RECEIPTS AND MONIES COLLECTED

Any funds payable to the court clerk or other officer pursuant to this act, by any licensed bondsman, managing general agent, surety company or professional bondsman shall be issued a receipt in the name of the surety company or professional bondsman, as the case may be, and when such funds are refunded or otherwise disbursed, they shall be made payable to such surety company or professional bondsman, as the case may be.

Amended by Laws 2009, HB 1275, emerg. eff. July 1, 2009.

Section 1338. USE OF TELEPHONE

Each person arrested shall have an opportunity to use the telephone to call his attorney and bondsman before being placed in jail, or within six (6) hours thereafter.

Laws 1965, eff. Jan. 1, 1966.

Section 1339. ACCESS TO JAILS

Every person who holds a valid bail bondsman's license issued by the Insurance Commissioner and registered as required in Section 20 of this act[1] shall be entitled to equal access to the jails of this state for the purpose of making bond, subject to the provisions of this act and the rules and regulations adopted and promulgated in the manner provided by law.

Laws 1965, eff. Jan. 1, 1966.

[1]Section 1320 of this title.

Section 1340. PERSONS EXCLUDED

This act shall not apply to a person who writes only one bond within each calendar year and who does not charge a fee for his services.

Laws 1965, eff. Jan. 1, 1966.

Section 27-118. MUNICIPAL FORFEITURES - COURTS NOT OF RECORD

A. If, without sufficient excuse, a defendant fails to appear according to the terms or conditions of a bond, given by a bail bondsman as defined in Section 1301 of Title 59 of the Oklahoma Statutes, either for hearing, arraignment, trial, or judgment, or upon any other occasion when the presence of the defendant in court or before the judge may be lawfully required:

1. The court shall perform the procedures set forth in Section 1332 of Title 59 of the Oklahoma Statutes whereby the municipal court clerk shall issue the required notices; or

2. a. The municipal judge shall issue an order declaring the bond to be forfeited on the day the defendant failed to appear and stating the reasons therefor, and

   b. Within five (5) days of the order of forfeiture, the municipal court clerk shall file a certified copy of the order with the district court in the county where the municipal government is located. The district court clerk shall treat the certified order of forfeiture as a foreign judgment and proceed in accordance with the provisions of Section 1332 of Title 59 of the Oklahoma Statutes. A surety shall have all remedies available under the provisions of Section 1108 of Title 22 and Sections 1301 through 1340 of Title 59 of the Oklahoma Statutes.

B. Court costs shall be collectible from the proceeds of a forfeited bond.

Amended by Laws 1995, HB 1120, emerg. eff. May 4, 1995.

Section 28-127. MUNICIPAL FORFEITURES - COURTS OF RECORD

If a defendant fails to appear according to the terms or conditions of his bond, either for hearing, arraignment, trial or judgment, or to surrender himself in execution of the judgment, or upon any other occasion when his presence in court or before the municipal judge may be lawfully required, bond forfeiture shall follow the procedures as set forth in Section 1332 of Title 59 of the Oklahoma Statutes.

Amended by Laws 1990, SB 674, emerg. eff. May 30, 1990.

TITLE 365. OKLAHOMA INSURANCE DEPARTMENT

CHAPTER 25. LICENSURE OF AGENTS, BAIL BONDSMEN,COMPANIES AND PREPAID FUNERAL BENEFITS

SUBCHAPTER 5. BAIL BONDSMEN

PART 1. CONTINUING EDUCATION FOR BAIL BONDSMEN

365:25-5-1. Purpose

The purpose of this Part is to set forth the prelicensing and continuing education requirements for bail bondsmen and to set forth the requirements for course approval.

365:25-5-2. Definitions

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

"Association" means the Oklahoma Bondsman Association.

"CEC" means continuing education credit.

"Certificate of course completion" means a document acceptable to the Commissioner and completed by the Association, which signifies satisfactory completion of the course and reflects hours of credit earned.

"Clock hour" means credit hour.

"Credit hour" shall consist of at least a fifty (50) minute classroom instructional session unless a correspondence or self-study course.

"Education verification form" means a form acceptable to the Commissioner and completed by the licensee, which documents compliance with the prelicensing or continuing education requirements.

"Instructor" means a person who presents course materials approved for prelicensing or continuing education credit hours and who has experience, training, and/or education in the course subject matter and has been approved by the Commissioner.

"Licensee" means a natural person who is licensed by the Commissioner as a bail bondsman.

"Proof of completion" means the certificate of course completion and education verification forms.

365:25-5-3. Education requirements

(a) **Education verification prior to licensure.** Prior to taking the bail bondsman licensing examination, the applicant shall successfully complete the hours of prelicensing education required by 59 O.S. §1308.1(A) in subjects pertinent to the duties and

responsibilities of a bail bondsman.

(b) **Continuing education.** All bail bondsmen shall complete eight (8) credit hours of continuing education required by 59 O. S. §1308.1(A) annually to meet the biennial requirement.

(c) **CE credit for instructor.** An instructor who is a licensed bail bondsman shall receive the same continuing education credit for presenting approved course materials as a licensee who attends an approved classroom instructional session.

365:25-5-4. Application for course approval

(a) **Oklahoma Bondsman Association courses.** The Oklahoma Bondsman Association shall apply for course approval from the Commissioner. The Association shall biennially submit a fee of Two Hundred Dollars ($200.00) to the Insurance Commissioner.

(b) **Information regarding OBA courses.** The Oklahoma Bondsman Association shall submit the following information concerning educational courses:

(1) Name, address and qualifications of the instructor;

(2) Contact person, his or her address and telephone number;

(3) The location of the courses or programs, unless it is an individual study or correspondence course;

(4) The number of hours requested for each course;

(5) Topic outlines which list the summarized topics covered in each course and upon request, a copy of any course materials. If a prior approved course has substantially changed, a summarization of those changes.

(c) **Instructor qualifications.** An instructor shall have one of the following qualifications:

(1) Three (3) years of recent experience in the subject area being taught; or

(2) A degree related to the subject area being taught; or

(3) Two (2) years of recent experience in the subject area being taught and twelve (12) hours of college and/or vocational technical school credit hours in the subject area being taught.

(d) **Losing course approval.** The Commissioner may withhold or withdraw approval of any instructor or course for violation of or non-compliance with any provision of this section.

365:25-5-5. Approval or denial of course; certificate of completion

(a) **Approval required 30 days in advance.** At least thirty (30) days in advance of the presentation of any course, the Association shall apply to the Commissioner for course approval. The Commissioner shall grant or deny approval based upon

information submitted in 365:25-5-4 regarding each course or additional information regarding the course, if necessary. The Commissioner will assign the number of hours awarded for an approved course.

(b) **Written approval required.** All courses shall require written approval.

(c) **Approval withheld or withdrawn.** The Commissioner may withhold or withdraw approval for any course approval. This withdrawal will not affect any hours attained under the course.

(d) **Minimum one credit hour per course.** Courses submitted for approval must consist of a minimum of one credit hour of course instruction.

(e) **CEC separate component of meetings.** Courses conducted in conjunction with other meetings must have a separate continuing education course component.

(f) **Certificate of Course Completion.** At the completion of each course, whether continuing education or prelicensing, the Association shall provide the bondsman with a "Certificate of Course Completion" form, which shall contain the verification of the Association that the bondsman completed the course so certified. Such bondsman shall then complete the education verification form and furnish it and a copy of the certificate of course completion to the Commissioner at the time of applying for licensing or for renewal of license as appropriate.

(g) **OBA supplies Commissioner with list of bondsmen completing course.** At the completion of each course, the Association shall provide to the Commissioner a list of all bondsmen who completed the course.

(h) **OBA records maintained 4 years.** The Association shall maintain course records for at least four (4) years.

365:25-5-6. Proof of completion; video courses

(a) **Correspondence courses.** A bail bondsman who satisfactorily completes an approved course by correspondence and provides proof of satisfactory completion, as specified by the Commissioner, will receive credit for the number of hours assigned by the Commissioner for completion of the course.

(b) **Video courses.** In order for a bail bondsman to receive credit for viewing an approved course presented by video cassette, the bondsman must view the video cassette under the supervision of an approved instructor, or under the supervision of an individual approved by the Oklahoma Bondsman Association, and swear by affidavit he has viewed the video cassette in its entirety. The affidavit must be submitted to the Association.

365:25-5-7. Repeating courses

A bondsman may repeat a course within the one year period if the maximum credits designated for the course were not attained in the first attempt. By repeating the course,

the bondsman may not during the annual period earn more than the maximum credits designated for the course. A bondsman may repeat a course after one year has elapsed and receive the maximum credits designated for the course.

365:25-5-8. Extensions of time

For good cause shown, the Commissioner may grant an extension of time during which the requirements imposed by 59 O.S. Section 1308 and 1308.1 may be completed. The extension shall not exceed six (6) months. The extension will not alter the requirements or due date of the succeeding year. "Good cause" includes disability, natural disaster, or other extenuating circumstances. Each request for extension of time shall be in writing from the licensee and shall include details and any documentation to support the request. Each request must be received by the Commissioner no less than thirty (30) days before the expiration of the one year period.

365:25-5-9. Severability provision

If any provision of this Part, or application of such provision to any person or circumstances, shall be held invalid, the remainder of the Part, and the application of such provision to person or circumstances other than those as to which it is held invalid, shall not be affected thereby.

TITLE 365. OKLAHOMA INSURANCE DEPARTMENT

CHAPTER 25. LICENSURE OF AGENTS, BAIL BONDSMEN, COMPANIES AND PREPAID FUNERAL BENEFITS

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.

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.

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.

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.

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.

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 each of the following:

(1) A Two Hundred Dollar ($200) renewal fee, and

(2) For professional bondsmen, a financial statement prepared in accordance with 59 O.S. § 1309(B).

(3) In case of renewal of a property bondsman license, the application shall also provide a county assessor's written statement stating the property's assessed value for each property used to post bonds and a written statement from any lien holder stating the current payoff amount on each lien for each property used to post bonds.

(b) Renewal filings or partial renewal filings submitted after the renewal date will be assessed a Two Hundred Dollar ($200.00) reinstatement fee in addition to the usual Two Hundred Dollar ($200.00) renewal fee.

(c) 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.

(d) 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.

(e) 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.

(f) The Commissioner shall mail all renewal licenses to the bondsman's address of record.

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 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.

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.

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, October 1 through September 30, 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.

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.

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.

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 a twenty-to-one (20:1) ratio of outstanding liability-to-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.

(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 special deposit shall equal at least a ten-to-one (10:1) ratio of outstanding liability-to-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, the cash or securities deposited in trust with the State Treasurer though the Insurance Commissioner's office pursuant to 36 O.S. §613 shall apply towards the special deposit required by this section.

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.

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.

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).

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.

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.

SUBCHAPTER 5. BAIL BONDSMEN

PART 7. SPECIFIC FINANCIAL CIRCUMSTANCES WARRANTING RELEASE OF PROFESSIONAL DEPOSIT

365:25-5-50. Authority and scope

This regulation is promulgated by the Insurance Commissioner pursuant to Section 1306(A)(5) of Title 59 of the laws of this state to describe the nature and scope of the specific financial circumstances warranting a release of a bail bondsman's professional deposit.

365:25-5-51. Specific financial circumstances enumerated

(a) For purposes of Section 1306(A)(5) of Title 59 of the laws of this state, the specific financial circumstances warranting release of a professional deposit are:

(1) Fire that damages or destroys either the office or residence of the bondsman;

(2) Flood that damages or destroys either the office or residence of the bondsman;

(3) Other natural disaster that damages or destroys either office or residence of the bondsman;

(4) Medical problem or illness sustained by either the bondsman or a member of the immediate family of the bondsman.

(5) The bondsman has unused bail writing capacity of at least forty percent (40%) of their liability limit, and has at least twelve (12) consecutive months of being at sixty percent (60%) or below this writing limit.

(b) The bondsman shall have the burden of showing the Commissioner by clear and convincing evidence the existence or occurrence of the circumstances, as well as providing to the Commissioner any necessary supporting documentation or other evidence the Commissioner requires.

365:25-5-52. Time governing release of professional deposit

The Commissioner shall release the professional deposit no earlier than ninety (90) days following the receipt of the request for release.

365:25-5-53. Limitations upon release of professional deposit below applicable limits

The Commissioner shall not release any portion of the professional bondsman deposit that results in the deposit dropping below the applicable limit set by Section 1306(A)(2) of Title 59 of the laws of this state.

365:25-5-54. Review of bail bondsmen's administrative history before release of professional deposit

The Commissioner shall review the bondsman's administrative history to determine if the bondsman owes any outstanding fines to the Commissioner or has any pending or concluded disciplinary action for unpaid bail bond forfeitures. The Commissioner shall not release the deposit if outstanding fines are owed or if forfeitures were unpaid in the time allowed by Section 1332 of Title 59 of the laws of this state. The Commissioner also shall not release the deposit if there are more than three (3) final Insurance Department administrative actions in the twelve (12) months preceding the release request.

365:25-5-55. Denial of request if bail bondsman has prior forfeitures

The Commissioner shall refuse the bondsman's deposit release request if the Commissioner was ever ordered by a Hearing Examiner to pay any forfeiture from the bondsman's professional deposit.

365:25-5-56. Limits on outstanding liabilities

The outstanding liabilities of the bondsman cannot exceed sixty percent (60%) of the professional deposit writing limit for at least one year prior to making application for partial release of deposit.

365: 25-5-57. Commissioner discretion to release amount less than requested

The Commissioner shall have the authority to release an amount less than requested by the professional bondsman, if the bondsman's requested amount will cause the remaining deposit to be insufficient to cover additional bail liabilities incurred by the bondsman.

365:25-5-58. Approval of final order by Commissioner

The final deposit release order shall be approved by the Commissioner or the Commissioner's designee, pursuant to Section 1306(A) (6) of Title 59 of the laws of this state.

ABOUT THE OKLAHOMA INSURANCE DEPARTMENT

The Oklahoma Insurance Department is responsible for enforcing the insurance-related laws of the state. We protect consumers by providing accurate, timely and informative insurance information. We promote a competitive marketplace and ensure solvency of the entities we regulate including insurance producers and adjusters, funeral directors, bail bondsmen & real estate appraisers.

More than $13 billion of premiums are written in Oklahoma annually. OID collects more than $150 million in premium taxes, which provides funding to the Firefighters Retirement System, the Police Retirement System, the Law Enforcement Retirement Fund as well as the State's General Revenue Fund.

ABOUT COMMISSIONER JOHN D. DOAK

John Doak was sworn in as the 12th Insurance Commissioner of Oklahoma on January 10, 2011. His mission is to protect Oklahomans through financial solvency, consumer protection, and business-friendly practices.

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