

STATE OF CONNECTICUT

INSURANCE DEPARTMENT

THIS BULLETIN HAS BEEN RENUMBERED TO "BULLETIN IC-28"

Bulletin IC-35

Date: September 30, 2011

TO: ALL INSURERS AUTHORIZED TO PLACE BAIL BONDS AND ALL SURETY BAIL BOND AGENTS LICENSED IN THE STATE OF CONNECTICUT

RE: CHANGES TO THE REQUIREMENTS APPLICABLE TO SURETY BAIL BOND AGENTS DUE TO THE PASSAGE OF PUBLIC ACT 11-45.

Public Act 11-45 titled "An Act Concerning Surety Bail Bond Agents and Professional Bondsmen" becomes effective on October 1, 2011. This Bulletin is to inform insurance companies and surety bail bond agents doing business in our state of the changes related to surety bail bond licensees and the new requirements applicable to them. The most important requirements and main issues arising out of the passage of the new law of which insurers authorized to place bail bonds in Connecticut and their agents should be aware of are summarized below.

I. MAIN PROVISIONS

A. Reporting, Fees, Audits and Other New Requirements

1. On or before January 31 of each year, each surety bail bond agent in the state is required to pay to the Commissioner a fee of \$450.00 annually to cover the cost of examinations of bail bond licensees undertaken by the Department. The new law provides that the applicable fee must be paid by "each person licensed as a surety bail bond agent in this state". Because under current law¹ the term "person" is defined as "an individual, a corporation, a partnership, a limited liability company, an association, a joint stock company, a business trust, an unincorporated organization or other legal entity", the required fee must be paid by both individuals and business entities holding a surety bail bond license. The Department reminds all licensees that failure to pay the specified fee on or before the due date constitute cause for the suspension or revocation of insurance licenses and/or for the imposition of fines.

2. The new law contemplates for a number of basic reports to be provided to the Commissioner by surety bail bond agents, insurers and managing general agents. Surety bail bond agents are required to notify the Commissioner of any change in status, such as changes in name, principal business address or residence address, bankruptcy proceedings or administrative actions. Insurers and their managing general agents must notify the Commissioner within five days of receiving notice or learning that one of their appointed surety bail bond agents has been

¹ Connecticut General Statutes § 38a-1 (14).

arrested for, pleaded guilty or nolo contendere to, or has been found guilty of a disqualifying offense in this state or an offense in any other state for which the essential elements are the same as a disqualifying offense. The definition of "disqualifying offense" has changed compared to current law. Under the new law, a "disqualifying offenses" include (A) felonies; (B) misdemeanors where an element of the offense involves dishonesty or the misappropriation of money or property; and (C) misdemeanors under section 21a-279, 53a-58, 53a-61, 53a-61a, 53a-62, 53a-63, 53a-96, 53a-173, 53a-175, 53a-176, 53a-178 or 53a-181d of the Connecticut General Statutes.

3. In addition to the basic requirements listed above, on or before the tenth day of each month, all surety bail bond agents are required to file with the Commissioner a certification form, signed under oath, certifying that the premium charged for each surety bail bond placed in the preceding month was the lawful rate filed by the insurer with, and approved by, the Commissioner.

4. Insurers are required to conduct a semiannual audit of each of their appointed agents to ensure that such agents are charging the lawful premium rate filed with, and approved by, the Commissioner. Should an audit by an insurer reveal that one of its appointed agents has failed to charge the required premium rate, such insurer is required to notify the Commissioner of such failure within 45 days of the date on which the audit was completed. The Department will conduct periodic market conduct examinations of insurers authorized to conduct business in our state to ensure that audit requirements are complied with.

5. As under previous law, premium finance agreements between surety bail bond agents and their clients continue to be allowed. When extending credit to their clients under a premium finance agreement, however, surety bail bond agents are required to collect at least 35% of the total premium due as a down payment and maintain a pertinent written promissory note signed by the principal or the indemnitor for the full amount of premium due. Such document must be maintained by the agent and presented to the Commissioner upon request or during an audit. Failure to present the written instrument will constitute cause allowing the Department to commence administrative action against the agent. The Department understands that in the past premium finance agreements may have been used by some surety bail bond agents as a mechanism to rebate part of the premium on a bond to their clients. Therefore, to avoid possible administrative action for violating the prohibition against rebating, surety bail bond agents will be required to make diligent efforts to collect all amounts due under a premium finance agreement.

6. Surety bail bond agents are required to maintain, for at least three years after the underlying court case has been disposed of, proper and complete records of all transactions related to surety bail bonds executed by such agents. Such records must include all documentation evidencing a given transaction, including, but not limited to, receipts for premium paid, receipts for collateral received, premium finance agreements, records of all expenses to recover fugitives and records of all efforts to collect the full amount of the premium on bail bonds where premium finance agreements have been used. Such documentation must be made available to Insurance Department personnel for inspection and examination. Failure to maintain the required documentation will constitute cause for administrative action against a licensee.

7. Collateral or other indemnity received by surety bail bond agents from their clients must be held in a fiduciary capacity, must be deposited in a segregated account and must be returned to the person who provided the collateral not later than twenty one days after the receipt of a court report showing that the underlying bail bond has been terminated. Should the court fail to provide a report on a terminated bond in which collateral had been given, the collateral security must be returned within twenty one days of the surety bail bond agent, the managing general agent or the insurer becoming aware that the bond has been terminated.

8. Under the new law, surety bail bond agents are precluded from (A) soliciting business, including distributing business cards, advertising material or written information material directed to potential clients, in or on the grounds of correctional institutions or other detention facilities, or in or on the grounds of courthouses; (B) paying any fees to attorneys for the referral of bail bond business; (C) offering anything of value to a principal or any person acting on the principal's behalf to place a bond; (D) receiving any fees from a principal for providing a bail bond, other than the premium on the bond, collateral required or allowance for expenses; (E) executing bail bonds on their own behalf; and (F) executing a bail bond for a person without the person's or the person's representative prior written authorization.

9. If a bail bond is forfeited and the forfeiture remains unpaid for at least sixty days from the day in which the payment was due, the surety bail bond agent who placed the bail bond and the insurer appointing such surety bail bond agent are prohibited from executing any additional bail bonds until such time as the forfeiture has been paid in full to the Office of the Chief State's Attorney.

10. Insurers underwriting surety bail bonds in this state and surety bail bond agents are required to maintain proper records of their transactions related to the placement of bail bonds and to provide to the Insurance Department, upon request, all the documents and files related to their Connecticut bail bond business. Such records include (A) commissions paid (insurers only); (B) the total face amount and number of bail bonds issued; (C) the total dollar amount and number of bail bonds forfeited; (D)) the total dollar amount and number of bail bonds forfeitures paid; (E) the total dollar amount and number of forfeitures recovered prior to payment for (i) any reason, or (ii) because of the apprehension of the principal; (F)) the total dollar amount and number of forfeited bail bonds that have not been reinstated, either because the principal has not returned to court within five days of the date on which the bond was ordered forfeited or for any other reason; (G) the total face amount and number of bail bonds forfeitures paid to and subsequently recovered from the Office of the Chief State's Attorney; (H) a list of all outstanding forfeitures, including the case number, name of the court in which it is recorded and the name of the agency employing the surety bail bond agent who placed the bond; (I) the total dollar amount and number of bail bonds for which the agent received collateral or other security; (J) the actual cash value of any collateral or other security converted into cash following the forfeiture of the underlying bail bond; (K) the cost of converting the collateral or other security; (L) the underwriting gain or loss (insurers only); and (M) the net gain or loss related to the portion of funds received from Connecticut business (insurers only). In addition, surety bail bond agents are required to furnish to each insurer that they represent the same information that they have provided to the Insurance Department pursuant to a request.

B. Licensing and Appointment Changes

1. The definition of “disqualifying offense” has been expanded to include, in addition to felony convictions and the enumerated misdemeanors constituting disqualifying offenses under the previous law, those misdemeanors in which one of the elements of the offense involves dishonesty or misappropriation of money or property.

2. When the license of a surety bail bond agent is surrendered, suspended or revoked the insurers appointing such licensee are required to designate a duly licensed and appointed agent to service and administer the bail bonds executed by the terminated licensee.

3. Individuals and business entities seeking to obtain a license as surety bail bond agents will be required to pay an application fee of one hundred and fifty dollars for each initial application for a license. In addition, all licensees are required to pay a fee of one hundred dollars for each license issued or renewed.

4. The requirement that surety bail bond agents obtain and hold an appointment from an insurer prior to executing bail bonds on behalf of such insurer has not changed. Therefore, any surety bail bond agent acting on behalf of an insurer must continue to be appointed as an agent by such insurer. Such appointment is required for individuals as well as agencies and must be filed with the Insurance Department prior to the agent posting any bonds on behalf of the appointing insurer.

5. By authorizing through an appointment filed with the Insurance Department a surety bail bond agent to act on its behalf, an insurer certifies that, to the best of the insurer's knowledge and belief, the surety bail bond agent is competent, financially responsible and suitable to serve as a representative of the insurer. It must be noted, however, that a certification of the insurer concerning the proper qualifications of a surety bail bond agents is not binding upon the Department for purposes of license denials or revocations.

6. By appointing a surety bail bond agent to act on its behalf, an insurer become bound by the acts of the appointee performed within the scope of the actual or apparent authority granted to the appointee. In addition, surety bail bond agents are precluded from representing that they are acting on behalf of an insurer until they have been appointed as agents in accordance with all legal requirements.

7. Previously, the Department had allowed insurers to file a notice of appointment for a surety bail bond agent within fifteen day of receiving notice that such agent had placed bail bond business on the insurers' behalf. Under the new law, no person is allowed to act as a surety bail bond agent for an insurer and place bail bonds on behalf of such insurer until the insurer has filed with the Commissioner a notice of appointment authorizing such person to solicit, negotiate and ~~execute surety bail bonds on its behalf.~~

C. Changes Relating to the Handling of Collateral

1. Surety bail bond agents who receive collateral security on bail bonds are required to provide to the person giving the collateral a written receipt that states the amount of collateral received in cash or, if the collateral consists of other type of property, describes in detail the collateral received. Such collateral must be reasonable in relation to the amount of the bond, cannot be used for the benefit of the surety bail bond agent and must be returned in the same condition in which it was received. For example, a surety bail bond agent who receives a car as collateral cannot use the car as his or her own or drive it around until such time as it is returned, rather must place the car in storage for the whole time during which it is held as collateral.
2. Collateral received on a bail bond must be held by the agent in a fiduciary capacity and must be kept separate from the agent's other funds or assets. In addition, if the value of the collateral received exceeds fifty thousand dollars, the agent is required to forward the entire collateral to the insurer or managing general agent for safekeeping. Insurers, however, are not precluded from entering into contractual arrangements whereby their agents are required to forward to the insurer or managing general agent collateral amounts of less than fifty thousand dollars.
3. When a surety bail bond is terminated, any collateral security must be returned by the insurer, surety bail bond agent or managing general agent to the person who gave the collateral within twenty one days after receiving notice by the court or becoming otherwise aware that the bond has been terminated. Should a surety bail bond agent fail to return in a timely manner any collateral received, the insurer underwriting the bond will ultimately be responsible for its return, regardless of whether the collateral was held by the insurer, the managing general agent or the surety bail bond agent.

II. PAYMENT OF FEES

The \$450.00 annual fee to cover the associated cost of examination is payable on or before January 31st of each year. An invoice will be mailed to all actively licensed bail bond agents and business entities on November 1st of the preceding year. This invoice will contain a numbered bar code, and must be returned with a cashier's check or money order made payable to: "Treasurer, State of Connecticut". This fee shall be remitted separately and apart from any payments made for new or renewed licenses.

III. REPORTING PROCEDURES AND FORMS

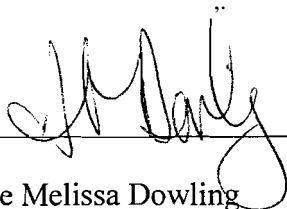
I. The monthly certification concerning premium collected is due to the Commissioner on, or before, the tenth of each month. Bail bond agents may locate the "Bail Bonds Certification" form on the CID website under the "forms and applications" tab. Submissions not made on this form, or not submitted electronically as directed, will not be accepted. The monthly certification is to be completed by all individually licensed bail bondsman and is not required for business entities.

2. Notification to the Commissioner about bankruptcies, administrative sanctions or criminal convictions must be made in writing with a complete explanation. All relevant documentation, such as court orders and final dispositions, must also be attached.

3. Individual bail bond agents changing appointments must submit to the Department a "Bail Bond Agent Appointment Affidavit". This affidavit must be signed and notarized and contains an attestation statement regarding collection of the proper premium. This form is located on the CID website under the "forms and applications" tab. This form must be received by the Department prior to any new appointments being accepted.

4. By January 31st annually, Surety companies must provide a report to the Commissioner certifying the total amount of bail bonds executed by such insurer and the total amount of premiums collected by such insurer on such bail bonds in the preceding calendar year. This report must be made on the bail bond surety company annual report form, located on the CID website under the "forms and applications" tab. It may be also submitted electronically or in hardcopy.

The entire text of the legislation may be viewed on the Connecticut General Assembly website using the following link: <http://www.cga.ct.gov/2011/ACT/PA/2011PA-00045-ROOSB-00028-PA.htm> Questions may be forwarded to Bailbonds@ct.gov.

A handwritten signature in black ink, appearing to read "Anne Dowling", is written over a horizontal line.

Anne Melissa Dowling
Deputy Insurance Commissioner