

**HAYS COUNTY BAIL**

**BOND BOARD**

**RULES AND REGULATIONS**



**HAYS COUNTY**

**SAN MARCOS, TEXAS**

Pursuant to the provisions of the Texas Occupations Code, Chapter 1704, the following rules and regulations are established to govern the setting and taking of bail bonds in Hays County, Texas. These rules and regulations take effect on the tenth calendar day after posting following the date approved by the Board. All prior rules and regulations previously promulgated by the Board are superceded. If any portion of these rules and regulations are found to be inconsistent or in conflict with any Texas statute, the statute shall be controlling.

Adopted by act of the Hays County Bail Bond Board November 20, 2020, effective January 1, 2021.

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## SECTION 1. GENERAL PROVISIONS

### RULE 1.01 AUTHORITY AND SCOPE OF RULES.

The Local Rules of the Hays County Bail Bond Board are established by the Hays County Bail Bond Board (hereinafter “Board”) pursuant to the statutory mandate that the Board supervise and regulate all phases of the bail bonding business within the County and prescribe and post any rules necessary to implement and administer Ch. 1704 of the Occupations Code, and any amendments thereto (“the Act”).

### RULE 1.02 PURPOSE

The purpose of these Rules is to supervise and regulate each phase of the bonding business within the geographic boundaries of Hays County and to adopt and post rules necessary to implement the Texas Occupations Code, § 1704.101. These Local Rules are intended to provide clear guidelines to bondsmen in Hays County on the various matters addressed within. Each bondsman, as a condition of his or her license, must comply with these rules and the provisions of the Act.

### RULE 1.03 DEFINITIONS

The following words and terms, when used in these Rules, shall have the following meanings, unless the context clearly indicates otherwise.

- A. **Act or the Act:** Texas Occupations Code, Chapter 1704 (Regulation of Bail Bond Sureties).
- B. **Agent:** an independent contractor licensed in Hays County as a bail bondsman and contracted by a Corporate Surety to issue bail bonds on behalf of the Corporate Surety.
- C. **Applicant:** a person seeking to obtain or renew a Corporate Surety, Corporate Surety’s Agent or Individual Surety License in Hays County.
- D. **Advertising:** the dissemination of personal, professional or business cards or solicitation by word, act or deed.
- E. **Bail Bond:** a cash deposit, or similar deposit or written undertaking, or a bond or other security, given to guarantee the appearance of a defendant in a criminal case.
- F. **Bail Bond Rules or Rules:** the Hays County Local Bail Bond Rules.
- G. **Bail Bond Surety:** a person who:
  - i. executes a bail bond as a surety or cosurety for another person; or
  - ii. for compensation deposits cash to ensure the appearance in court of a person accused of a crime.
- H. **Board:** the Hays County Bail Bond Board.
- I. **Bonding business or bail bond business:** the solicitation, negotiation, or execution of a bail bond by a bail bond surety.
- J. **Company:** an entity engaged in the bail bond business.

- K. County or “the County”:** Hays County
- L. District Attorney:** Hays County Criminal District Attorney
- M. Default:** A surety shall be deemed in default from the time that execution may be issued on a final judgment in a bond forfeiture proceeding under the Texas Rules of Civil Procedure, unless the final judgment is superseded by the posting of a supersedes bond.
- N. Employee:** any person who for hire or for any compensation performs work with or on behalf of a Licensee including but not limited to:
- i. meets and negotiates with members of the pubic for the purpose of selling bail bonds;
  - ii. receives money as a fee or money or property as collateral for bail bonds;
  - iii. presents bonds to the Sheriff’s Office for approval; and/or
  - iv. interviews or takes information from persons who have been or will be released from jail pursuant to a bond provided by the Licensee.
- O. Licensee:** a person licensed hereunder either as an Individual Surety or as Corporate Surety’s Agent.
- P. Person:** an individual or corporation.
- Q. Principal:** an individual arrested for a criminal offense who has authorized a bail bond agent to act on his or her behalf.
- R. Magistrate’s Office:** the office of the Criminal Associate Judges appointed by the District and County Court-at-law judges for Hays County.

## **SECTION 2. ORGANIZATION OF THE BOARD**

### **RULE 2.01 BOARD NAME**

The Board shall be known as “The Hays County Bail Bond Board.”

### **RULE 2.02 BOARD COMPOSITION**

The Board shall comprise the following persons<sup>1</sup>:

- A.** The County Sheriff or a designee from the Sheriff’s Office who must be the Sheriff’s administrator or a deputy of at least the rank of sergeant;
- B.** a District Judge of the County having jurisdiction over criminal matters and designated by the presiding judge of the administrative judicial district or a designee of the district judge who is approved by the presiding judge

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<sup>1</sup> Only those persons specifically granted the authority to designate a representative to serve on the board may do so.



- C. the County Judge, a member of the County Commissioner's Court designated by the County Judge, or a designee approved by the County Commissioner's Court;
- D. a Judge of a County Court or a County Court at Law in the County having jurisdiction over criminal matters and designated by the Commissioner's Court or a designee of the judge who is approved by the commissioners court;
- E. the County Criminal District Attorney or an Assistant Criminal District Attorney designated by the Criminal District Attorney;
- F. a licensed bail bond surety, or agent for a corporate surety in the County elected under Texas Occupations Code, § 1704.0535, or a bail bond surety or agent for a corporate surety licensed in the county who is designated by the elected surety or agent;
- G. a County Justice of the Peace, whom shall be designated by the elected Justices of the Peace in the County every two (2) years;
- H. the County District Clerk or the District Clerk's designee;
- I. the County Clerk or the County Clerk's designee;
- J. the presiding judge in the San Marcos, Texas, municipal court system, or a San Marcos municipal judge from the system designated by the presiding judge;
- K. the County Treasurer or the designee of the County Treasurer;
- L. a criminal defense attorney practicing in the County and elected by other attorneys whose principal places of business are located in the County and who are not legally prohibited from representing defendants, or the designee of the criminal defense attorney so elected.

### **RULE 2.03 BOARD MEMBER'S TERM**

Board members shall serve from January 1 through December 31 of each year unless these rules specifically provide otherwise.

### **RULE 2.04 BOARD'S OFFICE**

The Board's Office shall be at the at the Hays County Sheriff's Office, unless notice is posted contrary pursuant to a Board resolution.

### **RULE 2.05 NOTICES**

All notices shall be posted on the bulletin board in the Hays County Government Center, 712 South Stagecoach Trail, San Marcos, Texas 78666.

### **RULE 2.06 BOARD MEETINGS**

- A. **Open Meetings.** Meetings of the Board are open to the public and shall comply with the Texas Open Meeting Act.
  - i. Members of the public may speak at every regularly scheduled Board meeting by printing their full name on a Public Comments Sign-Up Sheet provided by the Bail Bond Board Administrator of the Board immediately before each regular meeting.

- ii. Public comments shall be limited to three (3) minutes each.
  - iii. Any comments not relating to an agenda item must be limited to proposing an agenda item for the next Board meeting.
  - iv. A Board meeting relating to a license suspension or revocation or Board inquiry relating to an agenda item shall not be limited by the provisions of this public comments rule.
  - v. If any provision of these subsections conflicts with the Texas Open Meetings Act, the Texas Open Meetings Act shall prevail.
- B. Quorum.** Four members of the Board shall constitute a quorum for the conduct of business. All action by the Board shall require the vote of a majority of the members present.
- C. Meeting Dates.** Regular meetings shall be held at least once per month on the third Friday of each month, or at other times at the call of the presiding officer.
- D. Meeting Time.** Meetings shall be held at 8:30 a.m. on the designated date unless the call thereof shall specify otherwise or unless notice is posted three full days in advance.
- E. Meeting Location.** Meetings shall be held at the Hays County Government Center, 712 South Stagecoach Trail, San Marcos, Texas 78666, unless otherwise specified.
- F. Called Meetings.** Meetings may also be held on call of the Chairman or any two members of the Board, in writing, and posting of notice at least 72 hours in advance.
- G. Meeting Agenda.** The Board Administrator shall post all meeting agendas in compliance with the Texas Open Meetings Act.
- i. Any interested person may request an item to be placed on the Agenda by presenting the request in writing to the Board Administrator no later than 10 days before the Board Meeting at which it is desired to be discussed and acted upon. The decision to place an item on the meeting agenda shall only be made by a member of the Board.
  - ii. Failure to timely submit all necessary documents will result in the matter not being placed on the agenda to be heard by the Board until such time as the item has been submitted timely and in complete form.
- H. Emergency Meetings.** An Emergency meeting may be held at any time upon agreement of any three members of the Board, with notice having been posted for at least 2 hours in advance.
- I. Posting Meeting Notices.** All notices shall be posted in compliance with the Texas Open Meetings Act. The Board Administrator shall post notice on the bulletin board at the Hays County Government Center.

## **RULE 2.07 ELECTED CRIMINAL DEFENSE ATTORNEY REPRESENTATIVE**

- A. Election Dates.** Elections for the criminal defense attorney representative will be held between December 1 and December 10, every year.

**B. Notice.** The Bail Bond Board Administrator shall post notice at the Hays County Government Center indicating the start and end of the elections for the criminal defense attorney representative on or before October 31 of the particular year.

**C. Criminal defense attorney representative election:**

- i. The next election shall be held in December of 2021, and every year thereafter.
- ii. Nominations for the criminal defense attorney representative shall be submitted to the Board at the regularly scheduled November meeting or by email to the Board Administrator beginning 8:00 a.m. on the Monday following the Board's regularly scheduled October meeting and ending on 5:00 P.M. on the following Friday.
- iii. The Bail Bond Board Administrator shall make the criminal defense attorney ballot available for pick up on December 1 of each year.
- iv. The ballot shall be placed in the Hays County Government Center. Once verified, each attorney eligible to vote shall be handed a ballot to place his/her vote. The ballot will be placed in a sealed box.
- v. All ballots shall be returned to the Bail Bond Board Administrator no later than 5:00 p.m. on December 10 of each year.
- vi. The Board shall use a random selection method to resolve any ties or multiple submissions for criminal defense attorney representative.
- vii. The Board shall identify the criminal defense attorney representative at the December monthly meeting, and shall vote to approve the nominee at that time.
- viii. In the event that no representative is named by the regularly scheduled December Board meeting, the current criminal defense attorney representative shall elect to serve for the next term or vacate the position. If vacated, the position will remain unfilled until such time that the Board Secretary or Bail Bond Board Administrator is advised that a new criminal defense attorney representative has been selected. The named nominee shall be submitted for approval to the Board at the next regularly scheduled meeting.

**D. Criminal Defense Attorney Representative Term.** The elected criminal defense attorney will serve a term of one year beginning January 1 and continuing until a successor takes office.

**E. Voter Eligibility.** Each attorney who has a principal place of business, as reflected in their business address found on the Texas State Bar website, located in the county and who is not legally prohibited from representing criminal defendants in the county is entitled to cast a vote to elect the board member who is a criminal defense attorney representative. Attorneys must show a copy of their State of Texas Bar Card to vote.

**RULE 2.08 ELECTED BAIL BOND SURETY REPRESENTATIVE**

**A. Election Dates.** Elections for the licensed bail bond surety representative will be held between December 1 and December 10, every year.

**B. Notice.** The Bail Bond Board Administrator shall post notice at the Hays County Government Center indicating the start and end of the elections for the licensed bail bond surety representative on or before October 31 of each year.

**C. Licensed bail bond surety election:**

- i. The Board shall conduct a secret ballot to elect the member of the Board who serves as the bail bond surety representative.
  - ii. The next election shall be held in December of 2021, and every year thereafter.
  - iii. Nominations for licensed bail bond surety representative shall be submitted to the board at the regularly scheduled November meeting or by email to the Board Administrator beginning 8:00 a.m. on the Monday following the Board's regularly scheduled October meeting and ending on 5:00 P.M. on the following Friday.
  - iv. The Bail Bond Board Administrator shall make the licensed bail bond surety ballot available for pick up beginning December 1 of each year.
  - v. The ballot shall be placed in the Hays County Sheriff's Department's jail facility. Once verified by presentation of either their bondsmen identification card or Texas Driver's License, each bondsperson will then be handed a ballot to place his/her vote. The ballot will be placed in a sealed ballot box.
  - vi. All ballots shall be returned to the Bail Bond Board Administrator no later than 5:00 p.m. on December 10 of each year.
  - vii. The Board shall use a random selection method to resolve any ties for licensed bail bond surety representative.
  - viii. The Board shall identify the licensed bail bond surety representative at the December monthly meeting, and shall vote to approve the nominee at that time.
  - ix. In the event that no representative is named by the regularly scheduled December Board meeting, the current licensed bail bond surety representative shall elect to serve for the next term or vacate the position. If vacated, the position will remain unfilled until such time that the Bail Bond Board Administrator receives a nomination for licensed bail bond surety representative. The named nominee shall be submitted for approval to the Board at the next regularly scheduled meeting.
- D. Licensed Bail Bond Representative Term.** The elected licensed bail bond representative will serve a term of one year beginning January 1 and continuing until a successor takes office.
- E. Voter Eligibility.** Each individual licensed in the county as a bail bond surety or as an agent for a corporate surety is entitled to cast one vote to elect the board member who is the bail bond surety representative regardless of the fact that a corporate surety may have multiple licenses for designated agents.

**RULE 2.09 JUSTICE OF THE PEACE REPRESENTATIVE**

- A. Selection of Justice of the Peace Representative.** The justices of the peace of the County shall select a justice of the peace representative by vote or by other reasonable

method. The selected justice of the peace shall notify the Board of his or her selection on or before January 1 of every odd-numbered year.

- B. Justice of the Peace Representative Term.** The justice of the peace representative will serve a term of two (2) years beginning January 1 in every odd-numbered year. The term will continue until a successor is selected.
- C. Failure to Select a Justice of the Peace Representative.** If the justices of the peace do not designate a justice of the peace by the first scheduled January board meeting in an odd-numbered year, the Board shall select a justice of the peace. If the justice of the peace fails to object to the selection by the next regularly scheduled board meeting, that justice of the peace shall be selected by acquiescence.

#### **RULE 2.10 BOARD MEMBER'S ELECTION AND DUTIES**

- A. Chairman.** At the Board's regularly scheduled January meeting, the Board shall select one of its members to serve as Chairman until the next such annual election, unless he or she be sooner disqualified. The Chairman shall preside over Board meetings and may vote on any Board matter.
- B. Vice-Chairman.** At the Board's regularly scheduled January meeting, the Board shall select a Vice-Chairman, who shall act in the temporary absence of the Chairman. In the event the Chairman be disqualified for any reason before the end of his or her term, the Vice-Chairman shall automatically become the Chairman. In such event, or if the Vice-Chairman becomes disqualified, at the next regularly scheduled Board meeting a new Vice-Chairman shall be chosen.
- C. Secretary.** At the Board's regularly scheduled January meeting, the Board shall select a Secretary who shall act in the temporary absence of the Chairman and Vice-Chairman. In the event the Secretary is disqualified for any reason before the end of his or her term, at the next regular meeting a new Secretary shall be chosen. The Secretary shall be responsible for the following duties:
  - i. supervising the receipt of applications;
  - ii. the preparation of agendas and issuance of policies related to agendas;
  - iii. the preparation and certification of records and transcripts of proceedings;
  - iv. the maintenance of records and minutes of meetings;
  - v. the publication and/or posting of notices; and
  - vi. the general office affairs not otherwise specifically assigned by these rules and regulations.
- D. Bail Bond Board Administrator.** Pursuant to its authority to enlist the services of such employees as are necessary to assist the Board in its functions, the Board shall designate an employee at the regularly scheduled January meeting to serve as the Bail Bond Board Administrator. The Bail Bond Board Administrator shall have no authority to bind the Board. In the event a Bail Bond Board Administrator position is vacant for any reason, all duties of the Bail Bond Board Administrator shall be performed by the

Board Secretary until a new Bail Bond Board Administrator is designated by the Board. The Bail Bond Board Administrator shall be responsible for the following duties:

- i. Receive, review, and process all applications;
  - ii. Receive and monitor monthly reports from bondsmen;
  - iii. Compile monthly reports for the board;
  - iv. Maintain a current total of each bail bondsman's potential liability on outstanding bonds;
  - v. Monitor each bail bondsman's security on behalf of the Board;
  - vi. Receive complaints against bail bondsmen for referral to the Board;
  - vii. Track case dispositions;
  - viii. Prepare reports required by law to be provided to any other governmental agency;
  - ix. Assist in preparation of agendas for Board meetings;
  - x. Assist in the maintenance of records and transcripts of proceedings; and
  - xi. Assist in the maintenance of the records and minutes of the meetings.
- E. Bailiff.** The Hays County Sheriff or his designee shall be the Bailiff of the Board.
- F. General Counsel.** The Criminal District Attorney or an Assistant Criminal District Attorney designated by him shall be the general counsel for this Board.

## **RULE 2.11 COMMITTEES**

The Board shall approve the creation of any committees and shall select the members to be appointed in accordance with requirements of the Open Meetings Act.

## **RULE 2.12 ADMINISTRATIVE FUNCTIONS OF THE BOARD**

- A.** Exercise powers incidental or necessary to the administration of Ch. 1704, Texas Occupations Code;
- B.** Deposit fees collected pursuant to Ch. 1704, Texas Occupations Code, in the general fund of Hays County;
- C.** Supervise and regulate each phase of the bonding business in Hays County;
- D.** Adopt and post rules necessary to secure compliance of bondsmen to Ch. 1704, Texas Occupations Code;
- E.** Conduct hearings and investigations and make determinations relating to the issuance, denial, or renewal of licenses in Hays County;
- F.** Issue licenses to qualified applicants and deny licenses to unqualified applicants;
- G.** Conduct Board business, including maintaining records and minutes

### **RULE 2.13 ENFORCEMENT FUNCTIONS OF THE BOARD**

- A.** Enforce Ch. 1704, Texas Occupations Code, in Hays County;
- B.** Conduct hearings and investigations and make determinations relating to license suspension and revocation;
- C.** Suspend or revoke a license for a violation of Ch. 1704, Texas Occupations Code, or a rule adopted by the Board pursuant to Ch. 1704;
- D.** Require a record and transcription of each Board proceeding; and
- E.** The Board may hold hearings and compel the appearance before the Board of an applicant or license holder; and administer oaths, examine witnesses, and compel the production of pertinent records and testimony by a license holder or applicant.

### **RULE 2.14 CHANGES TO RULES**

The Rules may be adopted, altered, amended or repealed by majority vote of all the members present at a regularly scheduled meeting of the Board, provided that at least 10 days written notice is given of the proposed adoption, alteration, amendment or repeal, by posting the proposed rules in the same manner as posting notice of meetings of the Board.

### **RULE 2.15 ROBERT'S RULES OF ORDER**

- A.** All proceedings not governed by specific statutory provision or rule of this Board shall be conducted in accordance with Robert's Rules of Order and the presiding officer shall be the ex-officio parliamentarian.
- B.** Failure to strictly follow Robert's Rules of Order shall not invalidate any action taken at a meeting of the Board or Members.

## **SECTION 3. LICENSING APPLICATION**

### **RULE 3.01 NATURE OF LICENSE**

A bail bond license is a right and permit personal to the licensee, and may not be transferred, sold or assigned. When a licensee dies, bonding authority immediately ceases to exist, and no more bonds can be written against that license.

### **RULE 3.02 APPLICATIONS FOR LICENSING**

Applications for a "Bondsman's License" shall be on the form adopted by this Board. The requirements set forth on Applications are incorporated in and form a part of these rules and regulations as if set forth at length herein.

### **RULE 3.03 BONDSMAN APPLICATION**

Any person or corporation desiring to act as bondman in any court in Hays County shall first file with the Board a sworn, completed application, unless the person is an attorney licensed to practice law in this state who represents the defendant in the criminal case for which bond was

given. Each application shall be submitted in the name of the individual or corporation seeking the license. Any person desiring to act as a corporate bondman must file a separate application for each agent operating under a corporate power of attorney.

#### **RULE 3.04 FILING FEES**

Each Application for a license must be accompanied by a filing fee of \$500.00. A corporation is required to pay a separate filing fee for each agent the corporation designates. Unless otherwise approved by the County Commissioner's Court, application fees are non-refundable once deposited in the County's general fund.<sup>2</sup> Once the Application is submitted, the \$500.00 filing fee will not be refunded.

#### **RULE 3.05 APPLICATION ATTACHMENTS**

Where an enclosure or an appendix is required in connection with an application, the same shall be firmly affixed to the application and included within the oath as if set forth in the body of the application.

#### **RULE 3.06 ASSUMED NAME**

- A. Where an individual applicant proposes to do business under an assumed name, a certified copy of an Assumed Name Certificate, properly completed and filed of record with the County Clerk, shall be submitted with the application.
- B. A corporate applicant or a corporate licensee shall not operate under an assumed name in the bail bonding business in the County unless they provide to the Board an express authorization to do so from within the Insurance Code or from the Texas State Department of Insurance.

#### **RULE 3.07 GENERAL APPLICATION REQUIREMENTS**

- A. In compliance with § 1704.152, Texas Occupations Code, to be eligible for a license under this chapter, an individual, including an agent designated by a corporation in an application, must:
  - i. be a citizen of the United States and a resident of the State of Texas;
  - ii. be at least 18 years of age;
  - iii. possess the financial resources required to comply with § 1704.160 Texas Occupations Code, unless the individual is only acting as an agent for a corporate licensee),

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<sup>2</sup> See Tex. Occ. Code §1704.101(2) "A board shall deposit fees collected under this chapter in the general fund of the county." and Local Gov't Code §113.041(c), "The county treasurer may not disburse money out of the county treasury without an order for payment from an officer who is authorized by law to issue the order."



- iv. provide documentary evidence that the applicant has, in the two (2) years preceding the date a license application is filed, been continuously employed for at least one (1) year by a person licensed under Ch. 1704 for at least thirty (30) hours per week, excluding annual leave, and has performed duties in all areas of the bonding business (possible examples include but are not limited to the following: a sworn statement of the former employer or license holder attesting to each of the requirements contained in this subsection; payroll and/or tax documentation; letters from public officials verifying that one or more of the requirements have been met; employment contracts; employee permits or licenses from bail bond board counties that issue such credentials; license applications; or employee disclosures submitted to a bail bond board showing the applicant as an employee), and
  - v. complete in person at least eight (8) hours of continuing legal education in criminal law courses or bail bond law courses that are approved by the State Bar of Texas and offered by an accredited institution of higher education in the state.
- B.** Section 3.07(A)(v) shall not apply to the issuance of an original license to an individual who applies to operate the bail bond business of a license holder who has died if the individual is related to the decedent within the first degree of consanguinity or is the decedent's surviving spouse.
- C.** No person shall be licensed unless the Board determines that he or she possesses a reputation for honesty, truthfulness, competency and fair-dealing.
- D.** No corporation is eligible to be licensed unless it is chartered or admitted to do business in the State of Texas, and is qualified to write fidelity, guaranty, and surety bonds under the Texas Insurance Code, as amended.
- E.** No person is eligible to be licensed if the person is or has been finally convicted of a misdemeanor involving moral turpitude or a felony.<sup>3</sup>

### **RULE 3.08    ADDITIONAL CORPORATE AGENT LICENSE REQUIREMENTS**

- A.** When submitting an application for a Corporate Surety License, an authorized corporate representative shall sign the application and include his/her title. Additionally, a letter of authorization from the corporate officer shall be included with the application, designating the individual agent who will answer and act on behalf of the corporation.
- B.** No Agent shall execute bonds for any Corporate Surety unless such Agent is individually licensed pursuant to the Regulation of Bail Bond Sureties. Such Agent shall also be specifically designated in the Corporate Surety's license application.
- C.** A Corporate Surety may appoint more than one Agent; however for each such Agent, a separate application shall be filed and all requirements of an individual Licensee shall be met with respect to application fees and security deposits.

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<sup>3</sup> Excluding convictions for offenses committed prior to August 27, 1973.

### **RULE 3.09 SUBMISSION OF APPLICATION**

- A.** The applicant shall submit the original paper application by mail or hand delivery to the Board Secretary or Bail Bond Board Administrator, as well as twelve (12) copies, in a form approved by the Board. The copies may be on paper or electronic media, at the discretion of the Board.
  - i.** The form approved by the Board must state:
    - (a) the applicant's name, age, and address;
    - (b) if the applicant is a corporation, whether the applicant is:
      - 1. chartered or admitted to do business in this state; and
      - 2. qualified to write fidelity, guaranty, and surety bonds under the Insurance Code;
    - (c) the name under which the bail bond business will be conducted, including a bail bond business that is conducted by an agent of a corporation;
    - (d) each place, including the street address and municipality, at which the business will be conducted; and
    - (e) the amount of cash or the cash value of a certificate of deposit or cashier's check that the applicant intends to deposit with the county treasurer if the applicant's application is approved or, if the applicant is an individual intending to execute nonexempt real property in trust to the board, the value of the real property;
- B.** All sureties and co-sureties who execute security bonds in the County shall ensure that a properly completed application for a bail bond license is received by the Board Secretary or Bail Bond Board Administrator no later than thirty (30) days before the application will be considered by the Board.
- C.** The application shall be accompanied by
  - i.** the applicant's complete, sworn financial statement;
  - ii.** the applicant's declaration that the applicant will comply with this chapter and the rules adopted by the board;
  - iii.** three (3) letters of recommendation, each of which must:
    - (a) be from a person who:
      - 1. is reputable; and
      - 2. has known the applicant or, if the applicant is a corporation, the agent designated by the corporation in the application for at least three years;
    - (b) include the author's printed name, address, phone number, title and relationship to the applicant.
    - (c) state that the applicant or, if the applicant is a corporation, the agent designated by the corporation in the application has a reputation for honesty, truthfulness, fair dealing, and competency; and

- (d) recommend the Board issue the license;
  - iv. the \$500 filing fee;
  - v. one (1) recent passport-sized photograph of the applicant or, if the applicant is a corporation, of the agent designated by the corporation in the application;
  - vi. a set of fingerprints of the applicant or, if the applicant is a corporation, of the agent designated by the corporation in the application taken by a law enforcement officer designated by the board; the filing fee described in Rule 3.04 in addition to:
  - vii. a DPS certified copy of the Applicant's criminal history; and
  - viii. if the applicant is or has been licensed under this chapter in another county:
    - (a) a list of each county in which the applicant holds a license; and
    - (b) a statement by the applicant, as of the date of the application, of any final judgments that have been unpaid for more than 30 days and that arose directly or indirectly from a bail bond executed by the applicant as a surety or as an agent for a surety; and
  - ix. if the applicant is a corporation, a statement by the designated agent, as of the date of the application, of any final judgments that have been unpaid for more than 30 days and that arose directly or indirectly from any bond executed by the agent as a surety or as an agent for a surety.
- D.** Until payment of the final judgment, an unpaid final judgment disclosed under Subsection (C)(viii)(b) or (C)(ix) bars licensure for the applicant unless the applicant has deposited with the court cash or a supersedeas bond in the amount of the final judgment pending:
- i. a ruling on a timely filed motion for a new trial; or
  - ii. an appeal.
- E.** A corporation must file a separate corporate application for each agent the corporation designates in the county.
- F.** Required attachments not submitted with the application must be received by the Board Secretary or Bail Bond Board Administrator prior to posting the Board Agenda for the monthly meeting at which the application will be considered.

#### **RULE 3.10 BONDSMAN INVESTIGATION**

- A.** The Bail Bond Board Administrator is hereby designated as the person to whom the application and the records of bondsmen shall be submitted to for inspection prior to the issuance and subsequent renewal of a bondsman's license in accordance with the provisions outlined in Section 3.07.
- B.** The Board Secretary, the Bail Bond Board Administrator, and the County Criminal District Attorney or an Assistant Criminal District Attorney designated by the Criminal District Attorney shall conduct an investigation of the applicant to determine whether the applicant meets the requirements of the Act and Rules.

- C. All Applicants shall fully cooperate with the Board in the investigation of their qualifications and shall furnish such records and other information as is requested or as shall otherwise be deemed by the Board to be relevant and necessary to complete the investigation.

### **RULE 3.11 NOTIFICATION OF DEFICIENCY TO APPLICANT**

If an applicant's financial resources are determined to be deficient or the application is incomplete, the applicant shall be notified of the deficiencies and given the opportunity to correct or amend his application.

### **RULE 3.12 DELIVERY OF INVESTIGATION REPORT AND APPLICATION**

Upon completion of such investigation, the Bail Bond Board Administrator shall furnish a complete copy of all reports together with a copy of the application to each member of the board not less than ten (10) business days prior to the meeting at which the application is to be considered.

### **RULE 3.13 CRIMINAL CONVICTIONS AND CONDUCT BARRING LICENSURE**

- A. No person shall be issued a license if, after August 27, 1973, the person commits and is finally convicted of a misdemeanor involving moral turpitude or a felony.
- B. No person shall be licensed who has been found by a court to be bankrupt or insolvent.
- C. No person shall be licensed who has in his or her employ a person who within the preceding ten years has been finally convicted of a felony offense or a misdemeanor involving moral turpitude in any jurisdiction, unless the employee was subsequently pardoned.
- D. No applicant shall be licensed if the applicant has an unpaid final judgment that has been unpaid for more than thirty days, and that arose directly or indirectly from a bond executed by the applicant as a surety or as an agent for a corporate surety, unless the applicant has deposited with the court cash or supersedes bond in the amount of the final judgment pending a ruling on a timely filed motion for new trial or an appeal of the judgment.

### **RULE 3.14 APPLICANT APPEARANCE**

Each Applicant shall be notified by the Bail Bond Board Administrator to appear in person or in the case of a firm or corporation, by a designated representative, before the Board on the date his Application is to be considered for such interrogation under oath as the Board or any of its members shall deem proper.

### **RULE 3.15 CONSIDERATION OF APPLICATIONS**

- A. All applications eligible for consideration shall be considered at each regular meeting of the Board.
- B. The discussion of the applicants and application shall be in open session.

- C. The Board shall vote on each Application separately by voice vote, or at the discretion of the presiding officer, by roll call vote or by hand count. If the Board determines that a ground exists to deny the Application, the Board shall enter an order denying the Application. The Board shall give written notice to Applicant of the Board's decision on the Application in the event an Applicant or a designee for the Applicant is not present at the time the Application is considered by the Board.

#### **RULE 3.16    CONDITIONAL APPROVAL OF APPLICATION**

- A. If no grounds exist to deny the Application, the Application is conditionally approved subject to the Applicant's duty to deposit the required security as codified in Texas Occupations Code, § 1704.160 and outlined in subsection B, below, and Rules 3.17 and 3.18.
- B. If an Applicant fails to tender the required security deposits as outlined in Texas Occupations Code, § 1704.160 within 90 days of receiving notice of the conditional approval of a license, the license will be invalid and the Applicant will be required to re-submit a new application for licensure as well as the application fee in order to have his or her license re-instated.
- C. Once an Applicant complies with the security requirements outlined in Texas Occupations Code, § 1704.160, the license approval will become final.

#### **RULE 3.17    SECURITY REQUIREMENTS: CASH OR CERTIFICATE OF DEPOSIT**

- A. Within 90 days of receiving conditional approval by the Board, a Licensee that relies upon collateral other than real property shall submit at least fifty thousand dollars (\$50,000.00) in cash or cash equivalent styled in the name of the County Treasurer and issued by a financial institution insured by the federal government in one of the following forms:
  - i. A cashier's check which shall be cashed and deposited by the County Treasurer.
  - ii. A Certificate of Deposit that:
    - (a) is automatically renewable; and
    - (b) is a negotiable instrument.
- B. A signed and completed Assignment of Security Form approved by the Board shall accompany all certificates of deposit. The Bail Bond Board Administrator shall submit a copy of the assignment to the issuing bank and the County Treasurer.
- C. All certificates of deposit accepted as security are subject to being confirmed with the issuing bank for validity. Submitting an invalid certificate of deposit constitutes a failure to tender the required security deposit.

#### **RULE 3.18    SECURITY REQUIREMENTS: REAL PROPERTY**

- A. Any property to be conveyed in trust to the Board to secure payment of any obligations incurred by the applicant shall be free and clear from encumbrances. The property

executed in trust must be valued in the amount not less than \$50,000.00 indicated by either:

- i. a current appraisal by a real estate appraiser who is a member in good standing of a nationally recognized professional appraiser society or trade organization that has an established code of ethics, educational program, and professional certification program; or
  - ii. the county's most recent certified tax appraisal roll.
- B. The trust deed(s) must be in a form and condition such that the deed(s) may be recorded to satisfy any final bond forfeiture judgment that may be made on bonds for which the licensee is surety.
- C. The trust deed(s), duly acknowledged, shall be filed in the deed records of the county in which the property is located. Applicant shall pay the filing fee for the filing of the instruments.
- D. At the time of the licensure, each applicant submitting real property as security under this section will be required to present a notarized affidavit to the Board swearing that:
  - i. the property is free and clear of any and all liens and encumbrances so long as it is used as security hereunder,
  - ii. there exists no homestead designation in relation to the property listed on the application. A notarized homestead designation on another property may be submitted in order to satisfy the Board that the pledged property is not encumbered by a homestead designation.

### **RULE 3.19 SECURITY REQUIREMENTS: IRREVOCABLE LETTER OF CREDIT**

If the applicant is a corporation, it may, in lieu of cash or other cash equivalent, furnish to the Sheriff an irrevocable letter of credit to satisfy any final judgment of forfeiture that may be made on any bonds on which the corporate licensee is surety. The corporation shall file with the County Clerk a power of attorney designating and authorizing the named agent to such corporation to execute bail bonds and shall present a certified copy of the Power of Attorney within the Corporate Surety's application.

### **RULE 3.20 SIGNATURE CARD**

All licensees and their employees are required to have on file in the Sheriff's Office a signature card upon the final approval of an Application by the Board.

### **RULE 3.21 OFFICIAL IDENTIFICATION**

Licenses and official identification cards shall be issued to licensees within a reasonable time of the licensee's final approval.

### **RULE 3.22 LICENSE EXPIRATION**

- A. A license issued to a licensee or corporate agent under these Rules shall expire:

- i. 24 months after the date of its issuance; or
  - ii. 36 months after the date of its issuance, if issued to a licensee or corporate agent that has been licensed for at least eight (8) consecutive years.
- B. A license issued to a licensee or corporate agent may not be renewed unless a timely application for renewal is filed with the Board.

## **SECTION 4. LICENSE RENEWAL**

### **RULE 4.01 RENEWAL APPLICATION PROCESS**

- A. The application for renewal shall have the same form and content as an application for the original license. The applicant shall include a copy of any certificate of deposit (“CD”) and a copy of a recorded CD assignment. If real property is pledged the applicant shall include a copy of the recorded deed of trust and all other documents pertaining to real property that are required in an original application, including verification that the real property is not designated as a homestead.
- B. It is the responsibility of the Licensee to ensure that a license is renewed prior to the expiration of the current license. If a renewal application is not timely filed and the current license expires, the Licensee shall not execute bail bonds until a new license is issued.
- C. Applications for renewal will be accepted not later than the 31<sup>st</sup> day before the license expiration date and may be filed up to 90 days prior to the license expiration date.
- D. If a renewal application is not timely filed, an original application is required. If a license expires, and a subsequent original application is granted, the bail bond surety’s licensure for purposes of calculating the bail bond limits identified in Texas Occupations Code, § 1704.203(f) begins on the surety’s most recent license issuance date, and no credit will be given for any prior licensure.

### **RULE 4.02 FILING FEES**

The filing fee to renew a license is the same as the original license application. Unless otherwise approved by the County Commissioners Court, all fees are non-refundable once deposited in the County’s general fund.

### **RULE 4.03 BONDSMAN INVESTIGATION**

The Board Secretary, the Bail Bond Board Administrator, and the County Criminal District Attorney or an Assistant Criminal District Attorney designated by the Criminal District Attorney shall conduct an investigation of the applicant to determine whether the applicant continues to meet the licensure requirements following a review of the license renewal application as well as any and all required records requested to be reviewed by the Bail Bond Board Administrator. All renewal applicants shall fully cooperate with the Board in the investigation of their qualifications and shall furnish such records and other information as is requested or as shall otherwise be deemed by the Board to be relevant and necessary to complete the investigation.

#### **RULE 4.04 RENEWAL APPLICATION CONSIDERATIONS**

All license renewal applications shall be considered in the same manner as original applications as outlined in Rule 3.15. If the Board determines that a ground exists to deny the renewal application, the Board shall enter an order denying the application. The Board shall give written notice to Applicant of the Board's decision on the application in the event an Applicant or a designee for the Applicant is not present at the time the Application is considered by the Board.

### **SECTION 5. WITHDRAWAL OF APPLICATION/LICENSE**

#### **RULE 5.01 WITHDRAWAL OF APPLICATION**

- A.** An Applicant may withdraw an application from consideration by the Board by submitting, in writing, a request to withdraw the application prior to the date the Board is scheduled to vote to approve or disapprove that application.
- B.** A request to withdraw an application must be received by the Board Secretary or Bail Bond Board Administrator before 5:00 p.m. on the day before the date the Board is scheduled to vote on the application.

### **SECTION 6. APPLICATION AMENDMENT**

#### **RULE 6.01 SWORN APPLICATION FOR AMENDMENT**

A License Application may be amended by filing an "Application for Amendment." All Applications for Amendment must be made under oath by the licensee and specifically state the application provision(s) of the sought to be amended, the reasons why said application should be amended, and what the application will ultimately state if the requested amendment is granted.

#### **RULE 6.02 SUBMISSION OF APPLICATION AMENDMENT**

All Applications for Amendment shall be submitted to the Board Secretary or Bail Bond Board Administrator with an original Application for Amendment and twelve (12) copies. The Applications for Amendment must be accompanied by a fee of \$50.00.

#### **RULE 6.03 REQUIRED AMENDMENTS TO APPLICATION**

If any of the following information which is required under the Original Application for a Bondsman's License changes, a licensee shall file an Application for Amendment within ten (10) days of the change to correct or otherwise update the information so as to fully, completely and accurately reflect the change. The information for which an amendment is required is:

- A.** the posting of additional security in the form of real property;
- B.** any information relevant to bankruptcy;
- C.** any information relevant to changes in the structure of a corporation;



- D.** any information relevant to additional counties wherein the licensee is doing bail bond related business;
- E.** any information relevant to the suspension, cancellation or revocation of any license to conduct bail bond related business in any other county;
- F.** any information relevant to becoming involved in civil litigation;
- G.** any information relevant to being arrested or otherwise charged with the commission of any criminal offense;
- H.** any information related to an unpaid final judgment that has been unpaid for more than thirty days, and that arose directly or indirectly from a bond executed by the applicant as a surety or as an agent for a corporate surety;
- I.** any information relevant to any change in the status of any property or assets which are in any way identified as security for the posting of bail bonds; and
- J.** any change in marital status.

#### **RULE 6.04 AMENDMENT CONSIDERATIONS**

- A.** The procedure for consideration of an Application for Amendment shall be the same as set forth for an original license, except in those instances where the amendment pertains to the posting of additional real property as security.
- B.** If the provisions of the application sought to be amended pertain to the posting of additional real property as security, only those portions of the application concerning the posting of real property shall be amended and submitted to the Board. All provisions in the Application for a bail bond license and these Rules shall apply to licensees seeking to post additional security in the form of real property.

## **SECTION 7. EXEMPTIONS**

#### **RULE 7.01 BOND EXEMPTION FORM**

All persons posting bail under legal exemption from the license requirements of the rules and regulations of the Bail Bond Board shall execute, under oath, a bail bond form approved by the Board and issued by the Sheriff's Office and are subject to the Hays County Sheriff's Office's procedures.

#### **RULE 7.02 SWORN DECLARATION**

Any time an unlicensed person attempts to post bail under an exemption provided by these rules and regulations or otherwise authorized by law, the Sheriff shall obtain a sworn affidavit that the person is worth, in his or her own right, and has property in this state subject to the law of execution worth, after deducting property exempt from forced sale by the Constitution of this State, and after payment of all his or her debts of every description, and after satisfying

any encumbrance on his or her property, an amount that is at least twice the amount of the bond he or she is executing.

### **RULE 7.03 ATTORNEY BONDS**

- A.** A person not otherwise licensed may execute a bail bond or act as a surety for another person if:
  - i.** the person is licensed to practice law in the State of Texas; and
  - ii.** at the time the bond is executed or the person acts as a surety, the person:
    - (a) files a notice of appearance of counsel of record in the criminal case for which the bond was executed or surety provided, or
    - (b) submits proof that the person has previously filed with the court in which the criminal case is pending the notice of appearance of counsel of record;
  - iii.** the person, within two years before the bail bond is given, completed in person at least eight hours of continuing legal education in criminal law courses or bail bond law courses
    - (a) approved by the State Bar of Texas or
    - (b) offered by an accredited institution of higher education in this state; and
  - iv.** the person has not been finally convicted of:
    - (a) a misdemeanor involving moral turpitude; or
    - (b) a felony.
- B.** Attorneys posting surety bonds must present their bar cards each time a bond is made.
- C.** Attorneys posting bail shall certify that the attorney-client relationship arose under conditions that are not in violation of the ethical canons or the published rules and regulations of the State Bar of Texas.
- D.** A person executing a bail bond or acting as a surety under this section may not engage in conduct involved with that practice that would subject a bail bond surety to license suspension or revocation. If the Board determines that a person has violated this subsection, the Board may suspend or revoke the person's authorization to post a bond under this section or may bar the person from executing a bail bond or acting as a surety under this section until the person has remedied the violation. Any action by the Board to suspend or revoke the person's authorization to post bonds under this Rule shall be done after notice and hearing in the same manner required for suspending or revoking a surety's license under Ch. 1704, Texas Occupations Code, and these local rules.
- E.** A person executing a bail bond or acting as a surety under this section shall not be relieved of liability on the bond solely because the person is later replaced or withdraws as attorney of record in the criminal case.
- F.** The Bail Bond Board shall have the authority to suspend or revoke an attorney's ability to write bonds if the Board determines that that attorney has written a bond for any individual who he or she does not represent in the underlying criminal case.

#### **RULE 7.04 PROHIBITION OF UNLICENSED CO-SURETY**

Except as permitted by § 1704.163, Texas Occupations Code, no unlicensed person may sign as a co-surety on a bail bond, and the Sheriff shall not accept any bail bond upon which appears the signature of an unlicensed person who is not exempt from licensure under § 1704.163, and who is purporting to be bound as a co-surety.

### **SECTION 8. SECURITY REQUIREMENTS**

#### **RULE 8.01 SECURITY MAINTAINENCE REQUIRED**

- A.** The license holder must maintain the amount of security required under these rules and regulations (as well as any amount of security required to be maintained in order to be in compliance with the Act), during the entire period of time the person holds the license. It is the duty of each bondsman to keep the amount of bail bonds that he or his agents have written and to keep account of the amount of judgment nisi outstanding against him so as to insure his compliance with these requirements.
- B.** Once assets or other property have been posted as security hereunder, the licensee cannot withdraw, transfer, replace or otherwise take any action relevant to said assets or property without submitting a written request thirty (30) days prior and obtaining the approval of the Board or submitting an application for license renewal which identifies the collateral to be substituted.

#### **RULE 8.02 ANNUAL FINANCIAL REPORT**

- A.** All financial reports shall be submitted on or before April 15 of each calendar year, coinciding with the licensee's federal income tax filing deadline.
- B.** If a licensee extends their federal income tax filing deadline to October 15 and elects to submit their annual financial statement on this date, then the licensee must file a written notice with the Board, no later than April 15.
- C.** In no event shall a licensee's financial statement be filed later than October 15 of each calendar year.
- D.** Licensees who maintain real property security shall submit, as a part of the annual financial report, the following information with respect to each parcel of real property:
  - i.** a statement dated no more than 90 days prior to filing from each taxing unit with power to assess or collect taxes against the property indicating that there are no unpaid taxes or outstanding tax liens on the property; and
  - ii.** a copy of the insurance policy, insuring all improvements on the property against any damage or destruction to the property for the full amount of the value claimed for the improvements.

### **RULE 8.03 SALE OF TRUST OR EXECUTED PROPERTY**

A trust created under Rule 3.18 is subject to the condition that the property executed in trust may be sold after notice is provided and under the conditions required by the Code of Criminal Procedure, to satisfy a final judgment on a forfeiture on a bail bond executed by the Applicant.

### **RULE 8.04 WITHDRAWAL OR SUBSTITUTION OF SECURITY**

- A.** A current license holder may request to withdraw the security or a portion of the security deposited or executed under these Rules and Texas Occupations Code, § 1704.160, and the security shall be returned, in full or in part, to the license holder or the license holder's heirs or assign, if the person requesting the withdrawal is a license holder in good standing and the amount of the security remaining after the withdrawal is:
  - i.** At least the minimum amount required by these Rules and Texas Occupations Code, §1704.160; and
  - ii.** An amount sufficient to maintain the ratios required by these Rules and Texas Occupations Code, § 1704.203.
- B.** Alternatively, a current license holder may withdraw the security and deposit an alternative form of security during the license renewal process in accordance with Section 3 and 4 of these Rules.
- C.** Any licensee requesting a withdrawal or substitution of security shall submit a written request to the Board Secretary and the Bail Bond Board Administrator and must disclose all outstanding judgments or bond liabilities. After receipt of such request, the Bail Bond Board Administrator shall coordinate with the Sheriff's Office and the County Treasurer to ensure that the requested withdrawal or substitution complies with the applicable statutes and these Rules.
- D.** Following the receipt of the request and investigation by the Board Secretary and Bail Bond Board Administrator, the Board Secretary or Bail Bond Board Administrator shall add the withdrawal or substitution request to the agenda of the next regularly scheduled meeting. The Board shall vote to approve the substitution or withdrawal and shall approve the request absent a showing of good cause.
- E.** A former license holder who has ceased to engage in the bonding business, or a former license holder's heir or assign, may withdraw the security or portion of the security deposit as executed under these Rules and Occupations Code § 1704.160, if the amount of the security remaining after the withdrawal is sufficient to:
  - i.** pay any outstanding judgments; and
  - ii.** secure any unexpired obligation on a bail bond executed by the former license holder.
- F.** License holders, current and former, may withdraw the security or a portion of the security deposited or executed under these Rules and Occupations Code § 1704.160, no more than one time per year.

#### **RULE 8.05    ADDITIONAL SECURITY**

Cashier's checks, cash, money orders, or certificates of deposit submitted as additional security shall be received by the Sheriff's Office not later than 1 p.m. to receive credit the same business day.

#### **RULE 8.06    LIST OF CURRENT SECURITY**

The treasurer shall maintain a list of securities held on behalf of licensees, clearly indicating the total security on deposit for each licensee and present a copy of the of the list to the Jail Secretary and Bail Bond Board Administrator immediately following the approval of a license and following any change in the security amount.

### **SECTION 9. ACTIVITY OF LICENSEE/AGENT/EMPLOYEE**

#### **RULE 9.01    BOND FORMS**

- A. Bail in the County shall be posted only on the applicable forms approved by the Board.
- B. All bonds shall be required to have the original signature of the surety on the face of the bond. Rubber stamps, photocopies or other similar reproductions of surety signature will not be approved or accepted, nor any bond that appears to be altered.
- C. Any licensee executing a bond issued under corporate power of attorney is required to attach a copy of the power of attorney authorization to the bond presented to the Sheriff's Office. The power of attorney authorization must be in an amount equal to or in excess of the bond amount.

#### **RULE 9.02    RELEASE OF SURETY**

- A. A surety seeking to discharge liability under Texas Code of Criminal Procedure, art. 17.16(a)(2) shall be required to use the Affidavit of Release of Surety adopted by the Board and available on the Hays County Bail Bond Board website.
- B. The surety shall be required to complete the Affidavit of Release of Surety in its entirety before presenting the form to the Sheriff for verification. The surety shall attach an Order of Discharge of Surety to the Affidavit of Release of Surety.
- C. Upon verification of incarceration by the Sheriff, the Sheriff shall:
  - i. Provide a copy of the Affidavit of Release of Surety to the Magistrate's office. The Magistrate shall review the Order of Release of Surety, and send the Affidavit of Release of Surety and Order on Affidavit to the clerk's office for filing; and
  - ii. Place a detainer against the accused with the appropriate officials in the jurisdiction where the accused is incarcerated as stated in the affidavit.
- D. It shall be the duty of the surety seeking discharge of liability to deliver a copy of the verified Affidavit of Release of Surety to the Criminal District Attorney.
- E. The clerk shall ensure that a copy of the Affidavit of Release of Surety and the Order of Release of Surety is filed in the court of record in the underlying criminal case in the

court where the prosecution is pending, or if the court record does not exist, in a general file maintained by the clerk of the court. The surety shall be notified via e-file that the Magistrate has reviewed an Order of Discharge of Surety.

### **RULE 9.03 SURETY MAY OBTAIN A WARRANT**

- A.** A surety desiring to surrender his principal under Texas Code of Criminal Procedure, art. 17.19(a)(2) shall be required to use the Affidavit for Surety to Obtain a Warrant adopted by the Board and available on the Hays County Bail Bond Board website.
- B.** A surety shall complete the Affidavit for Surety to Obtain a Warrant in its entirety. The surety shall attach an Order for Surety to Obtain a Warrant to the Affidavit for Surety to Obtain a Warrant.
- C.** The surety shall notify the principal and the principal's attorney of the surety's intention to surrender the principal in accordance with Texas Rules of Civil Procedure 21(a).
- D.** The surety shall deliver the Affidavit for Surety to Obtain a Warrant and the Order for Surety to Obtain a Warrant to the Magistrate's Office. The Magistrate shall review the Affidavit for Surety to Obtain a Warrant to determine if there is cause for a surety to surrender the surety's principal, and shall issue a capias or warrant for the arrest of the individual.
- E.** An arrest warrant or capias issued under this article shall be issued to the sheriff of the county where the case is pending and a copy shall be issued to the surety or his agent by the clerk of the court.

### **RULE 9.04 RECEIPT REQUIRED**

No licensee, agent of a corporate licensee or employee may receive money or other consideration or thing of value for issuance of bonds or undertaking of a surety obligation without issuing a receipt indicating the name of the person paying the money or transferring the property, the amount received or the estimated value of the property received and briefly identifying it, the suit, action, or matter for which it is received or is to be applied, and the name of the person receiving it. The licensee, corporate agent of a licensee, or employee shall retain a duplicate copy of the receipt which shall be kept with the records required under these Rules.

### **RULE 9.05 REQUIREMENT AS TO OUT-OF-COUNTY BONDS.**

- A.** Each licensee shall file with the Sheriff of Hays County, Texas, the Chairman of the Bail Bond Board, and the County employee designated by the Board under the Act, on the tenth (10<sup>th</sup>) day of each month, a statement of judgments nisi and final judgments taken against him or her on out-of-county bonds. Such report shall contain:
  - i.** the number of the case,
  - ii.** the name of the principal,
  - iii.** the date of the execution and approval of the bond,
  - iv.** the total aggregate sum of final judgment not paid, and

- v. an oath signed by the licensee.
- B. The statement may be must be made on the form prescribed by the Board.

#### **RULE 9.06 BOND REGULATIONS**

- A. No person or agent for a corporate surety required to be licensed under these rules and regulations may execute a bail bond without a license.
- B. The licensee's identification card must be presented each time a bond is made.
- C. Any individual who has signed as a surety on a bail bond in the County and is in default thereon shall thereafter be disqualified to sign as a surety so long as the individual remains in default on said bond. It shall be the duty of the Clerk of the Court wherein such Surety is in default on a bail bond, to notify the Bail Bond Board, the Board Secretary, the Bail Bond Board Administrator, and the Sheriff of the default.

#### **RULE 9.07 EFFECTIVE DATE OF BOND**

- A. Bonds for prisoners in the County jail or for persons who are to be delivered to the County jail, shall be effective when the bond has been approved by the County Sheriff or one of his deputies.
- B. Bonds for persons under process from a municipal corporation lying wholly or partly within the County shall be effective when approved by the official designated by such municipality.

#### **RULE 9.08 CASH BOND**

Cash Bonds (other than municipality court bonds) shall be posted with the Sheriff, who will provide a receipt and maintain an account thereof

#### **RULE 9.09 OFFICE LOCATION AND PHONE NUMBER**

- A. Every license holder shall maintain an office inside the County. An office location shall require a permanent physical address where the bondsman keeps the required records related to the bail bond business. Licensees and corporate surety agents shall use the business address and business phone number that is listed on the original license application to be entered on the Licensed Bail Bond Surety List, unless otherwise approved by the Board.
- B. Not later than the 10<sup>th</sup> day after the date a license holder opens a new office, moves an office to a new location, or updates or changes their phone number, the license holder shall notify the Bail Bond Board Administrator of the new location of the office. All licensees shall inform the Board by affidavit of any change in the information contained in their original applications within ten days of any change. Affidavits must be submitted to the Bail Bond Board Administrator identifying the new location and/or phone number and stating the proposed effective date before the request will be placed on the next meeting agenda.

## **RULE 9.10 EMPLOYEE APPLICATION**

- A.** All employees of licensees must first be approved by the Board. All persons desiring to act as an employee for a bondsman shall submit to the Board a sworn, completed Employee Application.
- B.** A licensee shall submit an Employee Application to the Board Secretary or Bail Bond Board Administrator. The application shall be accompanied by:
  - i.** a \$10.00 application fee,
  - ii.** one recent passport-sized photo of the employee,
  - iii.** a DPS certified copy of the employee's criminal history, and
  - iv.** a set of fingerprints taken by a law enforcement officer on a form approved by the Board.
- C.** Upon receiving the Employee Application, the Board Secretary the Bail Bond Board Administrator, and the County Criminal District Attorney or an Assistant Criminal District Attorney designated by the Criminal District Attorney shall conduct an investigation of the applicant to determine whether the applicant meets the requirements of these Rules. Upon completion of the investigation, the Secretary shall approve or disapprove of the Application within a reasonable period.
  - i.** If the Secretary approves the Employee Application, the employee is preliminarily approved for all purposes and the employee may begin employment.
  - ii.** If the Secretary disapproves the Employee Application, the employee is preliminarily not approved and the employee may not begin employment until and unless approved by the Board (See subsection E). The Bail Bond Board Administrator shall furnish a copy of the Employee Application to the Board members at the time of the posting of the agenda for the meeting at which the Employee Application will be considered by the Board.
- D.** The licensee and employee will be notified of the Board Secretary's approval or disapproval of the employee within three business days, as well as the date of the monthly meeting when the Board will re-consider an Employee Application that has been disapproved by the Bail Bond Board Administrator.
- E.** Upon receipt of the Employee Application, the Bail Bond Board Administrator shall add the consideration of the Employee Application to the agenda of the next upcoming meeting. The Board Secretary or Bail Bond Board Administrator will report of any investigation and approval or disapproval of an Employee Application.
  - i.** At the meeting, the employee shall submit to additional questioning under oath, if requested.
  - ii.** The Board shall then vote on whether to approve or disapprove of the Employee Application.



#### **RULE 9.11 LICENSEE EMPLOYEE LIST**

- A. No employee of a licensee will be permitted to sign as surety on any bail bond.
- B. Upon request by any Board Member, a licensee shall provide a complete list of employees who act for the licensee. The licensee shall notify the Bail Bond Board Administrator, in writing, when the employee is no longer employed by the licensee.

#### **RULE 9.12 NUMBER OF AGENTS AND EMPLOYEES**

Each surety company may appoint as many employees to represent them as they desire. Each surety must pay \$50.00 for each employee's appointment fee in addition to the Employee Application fee. Additionally, an individual may serve as an employee for more than one (1) surety provided that each surety company has paid an additional \$50.00 to the County Treasurer's Office identifying and designating that individual employee as an authorized employee for that surety company.

#### **RULE 9.13 TRAINEE EMPLOYEES**

Trainees must be under supervision of a licensed employee at all times.

#### **RULE 9.14 NOTICE OF EMPLOYEE TERMINATION**

If a licensee fires an employee, or if any employee terminates his employment with the licensee, the licensee shall give immediate written notice of such action to the Board Secretary, the Bail Bond Board Administrator, and the Sheriff, and the licensee shall provide the Board with a written account of the specific reasons for the employee's termination.

#### **RULE 9.15 DURATION OF EMPLOYEE AUTHORITY**

Board approval of an employee's authority expires when the surety's license expires, or upon the notification to the Board that an employee has been voluntarily or involuntarily terminated.

#### **RULE 9.16 GROUNDS FOR SUSPENSION**

- A. **Criminal convictions** - The commission or final conviction of any felony offense or of any misdemeanor offense involving a crime of moral turpitude shall be grounds for suspension or revocation of the license and identification card issued to a licensee, or the agent of the licensed bondsman.
- B. **False information** - A licensee, or the agent of a licensee, who knowingly gives false information to any law enforcement officer or official, regarding the whereabouts of any person for whom an arrest warrant or a capias is outstanding has engaged in

conduct which is grounds for suspension or revocation of the license and identification card issued to said license or agent.

## **SECTION 10. BAIL BOND LIMITS**

### **RULE 10.01 MAINTENANCE OF LIABILITY TOTALS**

The Bail Bond Board Administrator shall maintain for each license holder the total amount of the license holder's current liability on bail bonds.

### **RULE 10.02 BOND LIMITS BASED ON LICENSURE DATE**

- A. Licensed less than two (2) years** - A licensed bail bond surety who has been licensed in the County for fewer than two (2) years may not execute, and a person may not accept from the license holder, bail bonds that in the aggregate exceed:
  - i. ten (10) times the value of the property held as security under Rule 3.17 [Cashier's check, Certificate of Deposit, Cash] plus
  - ii. five (5) times the value of property held in trust under Rule 3.18 [Real Property].
- B. Licensed at least two (2) years and under four (4) years** - A licensed bail bond surety who has been licensed in the County for at least two (2) years and fewer than four (4) years may not execute, and a person may not accept from the license holder, bail bonds that in the aggregate exceed:
  - i. ten (10) times the value of the property held as security under Rule 3.17 [Cashier's check, Certificate of Deposit, Cash] plus
  - ii. six (6) times the value of property held in trust under Rule 3.18 [Real Property].
- C. Licensed four (4) years and under six (6) years** - A licensed bail bond surety who has been licensed in the County for at least four (4) years and fewer than six (6) years may not execute, and a person may not accept from the license holder, bail bonds that in the aggregate exceed:
  - i. ten (10) times the value of the property held as security under under Rule 3.17 [Cashier's check, Certificate of Deposit, Cash] plus
  - ii. eight (8) times the value of property held in trust under Rule 3.18 [Real Property].
- D. Licensed more than six (6) years** - A licensed bail bond surety who has been licensed in the County for more than six (6) years may not execute, and a person may not accept from the license holder, bail bonds that in the aggregate exceed:
  - i. ten (10) times the value of the property held as security under Rule 3.17 [Cashier's check, Certificate of Deposit, Cash] plus
  - ii. ten (10) times the value of property held in trust under Rule 3.18 [Real Property].

### **RULE 10.03 REINSTATED LICENSE**

If a licensed bail bond surety has had a license reinstated after having had his license revoked or otherwise suspended by the Board, the length of time that a company has been licensed shall be calculated from the date of reinstatement.

### **RULE 10.04 JUDGMENT NISI LIABILITY EXCEEDS TWICE THE AMOUNT OF SECURITY**

A licensee may not execute any bail bond if the amount of the licensee's current total liability on judgment(s) nisi in the County equals or exceeds twice the amount of security deposited or executed by the licensee.

## **SECTION 11. AUTOMATIC SUSPENSION OF LICENSE - VIOLATION OF SECURITY REQUIREMENTS**

### **RULE 11.01 RANDOM INSPECTION OF RECORDS**

The Board Secretary is designated as the authorized agent of the Board to inspect the records of any bondsman or licensee, at any time the Board Secretary deems it necessary to do so, as well as at any time the Board makes a request for the inspection of the records of any bondsmen or licensee.

### **RULE 11.02 BOND LIABILITY RECORD MAINTENANCE**

The Secretary of the Bail Bond Board is designated as the County Officer to maintain a current total of each bondsman's potential liability on bonds in force as required by the Act with the assistance of the Bail Bond Board Administrator.

### **RULE 11.03 AUTOMATIC SUSPENSION**

- A.** If the Board Secretary or Bail Bond Board Administrator determines that a licensee has failed to maintain security at the proper ratio as required by the rules and regulations herein, or as required by the Act, the Secretary or Bail Bond Board Administrator shall immediately notify the licensee and the Chairman of the Hays County Bail Bond Board.
- B.** No further bonds may be written by the licensee or his agent(s) after written notification has been sent to the licensee that he is in violation of the security requirements, pending further action by the Board.
- C.** At the next regularly scheduled meeting (or at an emergency meeting called by the Chairman of the Board), the Board shall consider the suspension of the license holder's license.
- D.** No prior notice or hearing to the licensee shall be necessary for suspension of said license.
- E.** If the Board determines that a licensee has failed to maintain the security deposit at the proper ratio, as required by these rules and regulations or as required by the Act, the

Board shall immediately enter an order suspending the license for as long as the violation continues.

#### **RULE 11.04 EXECUTION OF BONDS AFTER AUTOMATIC SUSPENSION**

Execution of a bail bond by the licensee or his employee/agent, at any point in time while a license suspension is in effect, after the licensee has been served with written notice that his license has been suspended, shall be grounds for revocation of the license.

#### **RULE 11.05 REINSTATEMENT OF LICENSE AFTER SUSPENSION**

Once the proper ratio is regained, the Secretary or or Bail Bond Board Administrator shall immediately lift the suspension and report such fact, in writing, to the Board.

### **SECTION 12. SUSPENSION OR REVOCATION OF LICENSE**

#### **RULE 12.01 FAILURE TO PAY JUDGMENT**

- A. The Board shall revoke the license, after proper notice and hearing, if the licensee fails to pay any final judgment associated with the licensee's bonding business within thirty-one (31) days after the date of the final judgment.
- B. If a licensee fails to pay the final judgment in a timely manner, the judgment shall be paid from the security deposited or executed under these Rules.

#### **RULE 12.02 ADDITIONAL GROUNDS FOR SUSPENSION OR REVOCATION OF A LICENSE**

The Board may, after notice and hearing, suspend or revoke a license or the authority of an agent for:

- A. Violation of the Act or Rules during the term of a license sought to be suspended or revoked or during the prior licensing period;
- B. Fraudulently obtaining a license under the provisions of the Act or Rules, making a false statement or misrepresentation in an application for an original or renewal license or in any hearing before the Board, or refusing to answer any question submitted by the Board in a hearing relevant to the license or conduct of the licensee or applicant;
- C. Final conviction under the laws of this state or the United States of a misdemeanor involving moral turpitude or of a felony;
- D. Being adjudged bankrupt or becoming insolvent;
- E. Being adjudged mentally incompetent;
- F. Paying of commissions or fees or dividing commissions or fees with any person, company, firm, or corporation not licensed under this Act;
- G. Soliciting bail bonds in any building where prisoners are confined;

- H.** Recommending to any client the services of a particular attorney or firm of attorneys in reference to a criminal matter;
- I.** Falsifying records or failing to maintain records as required by these Rules;
- J.** Providing law enforcement or official false information regarding his knowledge of the whereabouts of any person for whom a warrant of arrest or capias is outstanding;
- K.** Operating as a bondsman after the expiration of the bondsman's license and prior to the license's renewal; and
- L.** On one or more occasions failing to maintain the minimum amount of security required by the Act or misrepresenting to any official or employee of the official the bonding limits supported by the amount of security maintained to obtain the release of any person on bond.

#### **RULE 12.03 PAYMENT DEADLINES**

A person shall pay a final judgment on a forfeiture of a bail bond executed by the person not later than the 31<sup>st</sup> day after the date of the final judgment unless a timely motion for new trial has been filed.

#### **RULE 12.04 MOTION FOR NEW TRIAL**

If a timely motion for a new trial or a notice of appeal has been filed, the person shall either pay the judgment no later than the thirty-first (31<sup>st</sup>) day after the motion is overruled, if the motion is overruled, or deposit with the court cash or a supersedeas bond in the amount of the final judgment, if an appeal is filed.

#### **RULE 12.05 NOTIFICATION TO SHERIFF**

- A.** If a bail bond surety fails to pay a final judgment, as required by this Section, the Board or its authorized representative shall immediately notify the Sheriff.
- B.** After receiving notification, the Sheriff may not accept any further bonds from the bail bond surety until the surety pays the judgment.
- C.** Once the bail bond surety has made payment, the privilege to post bonds is reinstated.
- D.** The Board is not required to provide notice or a hearing before making the notification required by Subsection A, above.

#### **RULE 12.06 NOTICE AND HEARING**

After notice and hearing, the Board shall revoke a license if the license holder fails to pay a judgment in accordance with this Section, and the amount of security maintained by the license holder under these rules is insufficient to pay the judgment.

## **SECTION 13. INVESTIGATION OF COMPLAINTS**

### **RULE 13.01 SWORN COMPLAINTS**

All complaints, other than those considered by the Board on its own motion or at the request of a Court, shall be specific as to date, party, and conduct complained of and shall be in writing and shall be sworn to.

### **RULE 13.02 COMPLAINT FORMS**

- A.** The Board shall designate a board member to serve as Clerk for all proceedings involving alleged violations of these rules and regulations as well as any violations of the Act, or any rules or regulations made pursuant thereto.
- B.** The Sheriff's Office shall maintain and provide to any person seeking to file a complaint against a licensee contact information for the Clerk and a complaint form approved by the Board.

### **RULE 13.03 DESIGNATION OF CLERK**

- A.** The Board Secretary shall serve as Clerk for all proceedings involving alleged violations of these rules and regulations as well as any violations of the Act, or any rules or regulations made pursuant thereto. The Bail Bond Administrator shall assist the Secretary with any or all of the duties of the Clerk for these specific proceedings.
- B.** The duties of the Clerk shall be as follows:
  - i.** Receive all initial complaints involving violations of these rules and regulations as well as any violations of the Act, or any rules or regulations made pursuant thereto;
  - ii.** Forward all initial complaints to the Office of the District Attorney for investigation;
  - iii.** Send notice of the hearing to suspend or revoke a license under these rules or the Act, by certified mail, to the last known address of the license holder not later than the 11<sup>th</sup> day before the hearing date;
  - iv.** Mail a copy of the licensee's response, if any, and notice of hearing date and time to Complainant by certified mail;
  - v.** Mail a copy of the Board's decision to the licensee and the complainant by certified mail; and
  - vi.** Maintain a log for all initial complaints and any subsequent actions taken thereof.

### **RULE 13.04 DUTIES OF THE DISTRICT ATTORNEY**

- A.** The District Attorney's Office shall investigate and prosecute all alleged violations of the rules and regulations herein as well as any violations of the Act.
- B.** The duties of the District Attorney's Office shall be as follows:
  - i.** Investigate all complaints received by the Clerk designated by the Board;

- ii. File findings of fact and recommendations for further action with the Clerk designated by the Board, not later than thirty (30) days after receipt of the complaint;
- iii. Report to the Board as to the investigation and any recommendations made concerning a complaint filed with the Board on the second regularly scheduled meeting of the Board after initial receipt of a complaint from the Clerk; and
- iv. Prosecute any matter involving a violation of these Rules and/or the Act, to the extent required by art. 2.01, Texas Code of Criminal Procedure.

#### **RULE 13.05 SUFFICIENCY OF COMPLAINT**

Upon presentation of the findings of fact and recommendation of the District Attorney, the Board shall make a determination as to what course of action should be taken, including making a determination as to whether there is sufficient cause for the Board to conduct a full adversarial hearing on the matter

#### **RULE 13.06 ADVERSARIAL HEARING**

- A. Upon a majority vote of the Board, an adversarial hearing shall be held.
- B. The Board shall schedule a hearing and direct the District Attorney to present witnesses and prosecute said matter before the Board. The Board vests authority to issue subpoenas for any necessary witnesses.

#### **RULE 13.07 NOTICE TO LICENSEE OF HEARING**

Notice of a hearing to suspend or revoke a license under this chapter must:

- A. be sent by certified mail to the last known address of the license holder, not later than the 11th day before the date of the hearing;
- B. state each alleged violation of this chapter; and
- C. include a copy of any written complaint on which the hearing will be based.

#### **RULE 13.08 LICENSEE'S RESPONSE TO COMPLAINT**

No later than ten (10) days after receipt of the complaint, the licensee may submit a full written response to the Clerk designated by the Board.

#### **RULE 13.09 CONDUCT AT HEARING**

- A. **Scope of Hearing** - The hearing shall be limited to each alleged violation stated in the notice.
- B. **Licensee to be heard** - The hearing shall afford the licensee an opportunity:
  - i. to be heard,
  - ii. to present witnesses on his behalf, and
  - iii. to cross-examine witnesses against him.

- C. Public hearing** - Hearings before the Board shall be open to the public.
- D. Hearings recorded** - The hearing shall be recorded. The record of the hearing shall be made available, upon request, to the licensee for duplication or transcription subject to the licensee paying all reasonable costs associated with the duplication or transcription of the record.
- E. Burden of proof** - The findings of fact shall be based upon a preponderance of the evidence.
- F. Presiding hearing officer** - The Chairman of the Board shall make all rulings of procedure and determination of law.
- G. Findings by majority** - Findings of fact shall be upon a majority of the vote of those present and voting.
  - i. District Attorney recused** - The District Attorney and/or his representative shall not participate in the deliberations of the Board.
  - ii.** In case of a tie vote, the vote of the Chairman of the Board shall be the deciding vote.

#### **RULE 13.10 LICENSEE BOARD MEMBER DISQUALIFICATION**

- A.** If the complaint in any way is related to a licensee who is also a member of the Board, said licensee shall be disqualified as a member of the Board to consider said complaint.
- B.** In the event the licensee shall be so disqualified, the Chairman of the Board shall call a Special Session of the Board, as soon as is practicable, for the purpose of electing a licensee to serve in the place and stead of the licensee Board-Member who has been disqualified to consider the aforesaid complaint.
- C.** The election shall be determined by a majority of the licensees present at the specially called session.
- D.** Once elected, the licensee shall serve as the bail bondsman's representative on the Board at all meetings of the Board pending the final disposition of the complaint.

#### **RULE 13.11 GROUNDS FOR REVOCATION AND/OR SUSPENSION**

An affirmative finding of any violation of the rules or regulations of the Bail Bond Board, the Texas Occupation Code, Ch. 1704, or the laws of the State of Texas or of the United States is grounds for revocation and/or suspension of the license of any licensee.

#### **RULE 13.12 BOARD DETERMINES REVOCATION AND/OR SUSPENSION**

Upon finding that there has been any violation of these rules and regulations, the Texas Occupation Code, Ch. 1704, or the laws of the State of Texas or of the United States, the Board shall determine, by a majority vote of those members present, whether:

- A.** to revoke the licensee's license, or
- B.** to suspend said license and the duration of such suspension.



### **RULE 13.13 FINALITY OF BOARD'S ORDER**

- A.** A Board Order denying an application for a license or renewal of a license, or suspending or revoking a license, becomes final on the 31<sup>st</sup> day after the date the applicant or license holder receives notice of the order unless the applicant or license holder files an appeal under Texas Occupation Code § 1704.255.
- B.** A Board Order appealed under Texas Occupation Code § 1704.255 has full force and effect pending determination of the appeal.

## **SECTION 14. RECORDS REQUIRED TO BE MAINTAINED BY LICENSEES**

### **RULE 14.01 BAIL BOND RECORDS**

Any person licensed hereunder shall be required to maintain the following records:

- A.** A record of each bail bond on which the licensee appears as a surety which includes the following information:
  - i.** The style and number of the case and the court in which the bond is executed;
  - ii.** The name of the principal/defendant released on bond;
  - iii.** The agency case number, charge, court information and/or indictment number (so as to distinguish one bond from any other bonds which may have been posted for the same individual facing multiple charges stemming from one arrest);
  - iv.** the amount of the bail set in the case;
  - v.** The amount and type of security held by the license holder, together with a statement of whether the security is held by the license holder is for the payment of a bond fee or to assure the principal's appearance in court; and
  - vi.** The conditions under which the security will be returned.
- B.** Licensees shall create and maintain a record of the above information for every individual for which he appears as a surety on the bond.
- C.** The licensee shall maintain these records for four (4) years from the conclusion of the defendant's cause for which bond was given.
- D.** These records shall be separate and distinct for each county in which the bondsman is licensed or executes bail bonds or otherwise does bail bond-related business.

### **RULE 14.02 UPDATE / MAINTAIN ALL BAIL BOND RECORDS**

A licensee shall also maintain records for each of the above referenced bonds noting the current status of the bond as "pending," "forfeited" or "disposed." A licensee shall also maintain a record of all outstanding judgments nisi served upon the licensee, including the name of the principal, the cause number, the date on which the principal failed to appear and the amount of the bail bond.

### **RULE 14.03 INSPECTION PRIOR TO LICENSE RENEWAL UPON DEMAND**

- A. Prior to license renewal and upon demand of the Board, the licensee shall submit all records maintained at the license holder's office location in the County pursuant to Rule 14.01 to the Bail Bond Board Administrator. The Bail Bond Board Administrator will provide the records to the Board.
- B. The Board shall inspect the submitted records prior to approval of the license renewal application.
- C. The Board may request copies of any all records provided by the bondsman in accordance with Rule 14.01, however, the Board is responsible for all costs associated with copying the records.

### **RULE 14.04 MONTHLY REPORT**

- A. **Licensee Monthly Report.** Not later than the 10<sup>th</sup> day of every month, each licensee shall complete a "Monthly Report" form designated by the Board and furnish the form to the Bail Bond Board Administrator. The "Monthly Report" form shall include the information required to be kept under Rule 14.01 for the previous month.
- B. **Bail Bond Board Administrator Review of Monthly Report.** The Bail Bond Board Administrator shall review the monthly reports as they are submitted to determine whether a report reflects that a licensee has exceeded the statutory bond writing limits of the security posted by the licensee. If the "Monthly Report" has not been furnished by the 10<sup>th</sup> day of the month, or such limit has been exceeded, the Bail Bond Board Administrator shall immediately notify the Secretary and Sheriff or his or her designee, and the surety shall immediately be suspended from posting bonds.
  - i. A surety who has been suspended from posting bonds for failing to furnish the "Monthly Report" may have his or her privilege to write bonds reinstated by furnishing the report.
  - ii. A surety who has been suspended from posting bonds for exceeding the statutory bond writing limits pursuant to this provision may have his or her privilege to write bonds reinstated by furnishing proof of compliance with his or her posting limits with the Bail Bond Board Administrator.
- C. If satisfactory proof is presented to the Bail Bond Board Administrator, the Bail Bond Board Administrator shall notify the Secretary and Sheriff or his or her designee of the reinstatement of the surety's privilege to post bonds.
- D. **Review of License Suspension at Board Meetings.** Any action taken by the Bail Bond Board Administrator or Secretary pursuant to this rule shall be placed on the agenda for ratification by the Board at its next regular meeting.

## **SECTION 15. PUBLISHING A LIST OF THE LICENSEES**

### **RULE 15.01 LIST OF LICENSEES**

- A. The Board shall publish a list of licensees by proper name and showing the business address and telephone number of each licensee.
- B. The Board shall conduct a drawing to determine the order of the licensees on the list.
- C. When the Board issues a new license, a new list including the new licensee shall be published. The new licensee(s) shall be placed at the end of the list.
- D. No unlicensed person, even though exempt from licensing, may be placed on the list.

### **RULE 15.02 WEEKLY ROTATION OF BONDING COMPANIES**

After the initial drawing, the list of licensees will be rotated each week. The rotation will continue for the entire year until the next random selection in January of every year.

### **RULE 15.03 POSTING LIST OF LICENSEES**

- A. The Board shall post in each court having criminal jurisdiction in the County, and shall provide to each local official responsible for the detention of prisoners in the County, a current list of each licensed bail bond surety and each licensed agent of a corporate surety in the County.
- B. A list of each licensed bail bond surety and each licensed agent of a corporate surety in the County shall be displayed at each location where prisoners are examined, processed, or confined.

### **RULE 15.04 PROHIBITION OF LISTING NON-LICENSED BONDSMEN**

No non-licensed person or firm (including those exempt from licensing) may be placed on the published list of licensees.

### **RULE 15.05 LIST UNIFORMITY**

No Sheriff, or Sheriff's Deputy, or Peace Officer or other employee, or clerk or deputy clerk of any court will permit any identifying or emphasizing mark to be made on such published list. If the published list becomes so marked, it shall be the responsibility of the Sheriff, his deputy, or other peace officer or court clerk to obtain a new unmarked list for display.

## **SECTION 16. ADVERTISING AND OTHER ETHICAL REQUIREMENTS OF CONDUCT FOR LICENSEES**

### **RULE 16.01 LICENSEE ADVERTISING RESTRICTION**

- A. No bondsman (licensed or exempt) shall place, or permit to be placed, any advertising at any place where prisoners are examined, processed or confined, nor in a location visible from where prisoners are examined, processed or confined.

- B. No licensee, or agent of a licensee, may solicit bail bond related business in a police station, jail, detention facility or other place where persons in the custody of law enforcement officials may be detained.

#### **RULE 16.02 PROHIBITED SOLICITATIONS**

- A. No person, firm, corporation, or agent thereof, that is not licensed to issue bail bonds may use a phone number, address or advertising of any kind to solicit bail bond-related business or refer bail bond-related business to a licensee or to any other non-licensee.
- B. No licensee may use a phone number, address or office of a non-licensee to conduct any bail bond business.
- C. No person may advertise as a bondsman who does not hold a valid license under these Rules.
- D. No licensee or agent of a licensee may promise to provide an attorney to any person seeking bail.

#### **RULE 16.03 COMMISSION OR FEES FOR REFERRALS**

No licensee may pay any commission or divide any commission or fee with any person, company, firm or corporation that is not permitted to execute bonds, or in any manner pass anything of value to any person for referrals of bond business. This prohibition also includes any and all agents and other employees of the licensee.

#### **RULE 16.04 PROHIBITED REFERRALS FOR EMPLOYMENT WITH BONDING BUSINESS**

- A. No licensee, or agent of a licensee, may by any means, recommend or suggest to any person whose bail bond has been posted, the name of any particular attorney or firm of attorneys for employment in connection with a criminal action.
- B. No person associated with the bail bond business shall either directly or indirectly, give, promise to give or otherwise pass any money, property or other thing of value to any police officer, sheriff, deputy, constable, jailer, or employee of a law enforcement agency for the referral of bonding business.
- C. No person may accept or receive from a license holder money, property, or any other thing of value as payment for the referral of bonding business unless the records of the board show that the person is an agent or employee of the license holder.
- D. A license holder is prohibited from hiring or otherwise allowing a person to receive any form of payment for employment with a bonding business if, within the preceding ten (10) years the person has been convicted of a misdemeanor involving moral turpitude or of a felony.

#### **RULE 16.05 REFERRALS BY LAW ENFORCEMENT PROHIBITED**

The following persons may not recommend a particular bail bond surety to another person:

- i. A police officer, sheriff, or deputy;

- ii. A constable, jailer, or employee of a law enforcement agency;
- iii. A judge or employee of a court;
- iv. Another public official; or
- v. An employee of a related agency.

#### **RULE 16.06 ARREST OF PRINCIPAL**

No bondsman, agent, employee, or contractor shall arrest or attempt to arrest a principal on a bond except as specifically authorized by law. No bondsman, agent, employee, or contractor shall hire a person for the purpose of that person executing an arrest warrant for a principal or principals on a bond unless that person is authorized to do so under art. 17.19, Texas Code of Criminal Procedure.

### **SECTION 17. MISCELLANEOUS PROVISIONS**

#### **RULE 17.01 APPLICATION OF INTEREST**

- A. Where cash is posted in connection with a license and placed on time deposit, any interest earned shall be posted with the bonds company.
- B. Where the bonding company has posted a certificate of deposit, interest earned shall be posted with the bonding company on a semi-annual basis.

#### **RULE 17.02 FEES COLLECTED**

All fees collected by the Bail Bond Board may be used only to administer and enforce the Act and the Bail Bond Board rules, including reasonable and actual expenses for the board related to the collection and maintenance of collateral.

#### **RULE 17.03 SEVERABILITY**

If any provision of these Rules or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect or alter other provisions or applications of the Rules which can be given effect without the invalid provision or application, and to this end, the provisions of the Rules are declared severable.

#### **RULE 17.04 CONFORMITY CLAUSE**

It is the purpose of the Rules to conform in their entirety to the Act. If there be any conflict between the Rules and the Act, the Act shall control.

## **SECTION 18. ADOPTION AND IMPLEMENTATION OF THE RULES AND REGULATIONS FOR THE HAYS COUNTY BAIL BOND BOARD**

### **RULE 18.01 EFFECTIVE DATE**

As soon as practicable following the organizational meeting of this Board, the Board by resolution shall establish an effective date for the implementation of the procedures outlined by these Rules and Regulations and by the Texas Occupation Code, Ch. 1704.

### **RULE 18.02 TEXAS OCCUPATIONS CODE**

The rules and regulations promulgated by this Board are in addition to the provisions of the Texas Occupation Code, Ch. 1704, and in case of a conflict, the statute will prevail.

### **RULE 18.03 BAIL BONDS ISSUED PRIOR TO EFFECTIVE DATE**

All bail bonds outstanding at the time of the adoption, passage and implementation of these rules and regulations shall remain in full force and effect. All bail bonds shall continue to be posted in accordance with the usual custom until the effective date.

**NOTE ON RULE PROMULGATION AND EFFECTIVE DATES: AS INDICATED BY BOARD APPROVAL BELOW, UNLESS PROVIDED OTHERWISE BY SOURCE NOTES, ALL RULES CONTINUE IN EFFECT FROM JANUARY 1, 2021.**

ENTERED AND APPROVED this 29 day of December, 2020.



Beverly Crumley (Dec 11, 2020 15:16 CST)

CHAIRMAN  
Beverly Crumley,  
County Clerk



Ruben Becerra (Dec 14, 2020 13:44 CST)

VICE-CHAIRMAN  
Ruben Becerra,  
County Judge



Lt. John Saenz (Dec 29, 2020 10:20 CST)

SECRETARY  
John Saenz,  
Lieutenant - Jail  
Operations



David Junkin,  
District Court Judge



Britney Richey (Dec 18, 2020 09:15 CST)

Britney Richey,  
County Treasurer



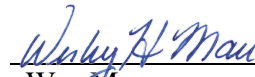
Elaine H Cardenas (Dec 18, 2020 14:19 CST)

Elaine Cardenas  
County Clerk

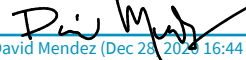


R Updegrave (Dec 28, 2020 16:21 CST)

Robert Updegrave,  
County Court-at-Law  
Judge

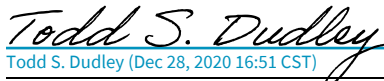


Wes Mau  
Criminal District Attorney



David Mendez (Dec 28, 2020 16:44 CST)

David Mendez  
Elected Bail Bond  
Representative



Todd S. Dudley (Dec 28, 2020 16:51 CST)

Todd Dudley  
Elected Criminal Defense  
Attorney Representative



Jo Anne Prado (Dec 29, 2020 09:49 CST)

Jo Anne Prado  
Justice of the Peace  
Representative

Updated 2020












# Bail Bond Rules

Final Audit Report

















2020-12-29


Created:	2020-12-11
By:	Wes Mau (wes.mau@co.hays.tx.us)
Status:	Signed
Transaction ID:	CBJCHBCAABAAidawDQxFpzO4zmDil-szxPrbBVKE2BhC


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2020-12-11 - 7:56:33 PM GMT
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2020-12-11 - 9:15:02 PM GMT- IP address: 66.68.86.61
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