

# **LOCAL RULES**

(AS ADOPTED: NOVEMBER 26, 2002)

*The following rules supersede and replace all other rules previously adopted by the Nueces County Bail Bond Board, hereafter called the Board, pursuant to its authority under Chapter 1704 of the Texas Occupations Code (hereinafter the "Bail Bond Act"). The rules relate to those persons or entities who may be licensed as a Bail Bond Surety, as defined in the Bail Bond Act, and who may write a bail bond in Nueces County, Texas. Any rule violation may result in sanctions as the Board may assess pursuant to Texas Law.*

## **I. APPLICATION, GRANTING AND ISSUANCE OF LICENSE**

### **A. APPLICATION (§1704.154 Bail Bond Act)**

1. An individual or corporation may apply for a bail bond license by completing the approved application form and complying with the requirements of these rules. Each sworn application must be on file with the Board at least thirty-one (31) days before a license will be issued.
2. The security requirements shall be as follows:
  - a. Cash, certificate(s) of Deposit, Cashier's Check, or Cash equivalent shall not be less than \$50,000.00, or
  - b. Nonexempt real property currently appraised by a member of the Society of Real Estate Advisors, or a Member of Appraisal Institute at not less than \$50,000.00.
    - i. Each property submitted must have a minimum appraised value of \$50,000; and, must be re-appraised at the time of the second renewal application.
    - ii. Such property must be unencumbered.
    - iii. Applicant must submit an Original or Certified copy of a warranty deed executed and filed in the name of the licensee.
    - iv. Any deeds of trust must be granted to the Board and be recorded with the Nueces County Clerk. Prior to recording, the deed of trust must be approved as directed by the Board. The original or certified copy

of the recorded deed of trust will be held and secured as directed by the Board.

- v. The list of nonexempt real property must, for each parcel listed, include:
    - (a) A legal description of the property that would be sufficient to convey the property by general warranty deed.
    - (b) A current statement from each taxing unit authorized to impose taxes on the property showing that there is no outstanding tax lien against the property and the net value of the property according to a current appraisal made 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.
    - (c) A statement by the applicant that, while the property remains in trust, the applicant agrees to pay the taxes on the property; will not further encumber the property unless the applicant notifies the board of the applicant's intent to encumber the property and the board permits the encumbrance; and agrees to maintain insurance on any improvements on the property against damage or destruction in the full amount of the value claimed for the improvements.
    - (d) A statement of whether the applicant is married and if the applicant is married a sworn statement from the applicant's spouse agreeing to transfer to the board, as part of the trust, any right, title, or interest that the spouse may have in the property.
  - c. A license holder must maintain the amounts of security required by the rules and under the Bail Bond Act during the time the person holds the license.
3. No collateral of any kind submitted to obtain or renew a license can be changed, substituted, or modified in any way that might affect the Board's right of execution against it, without prior written approval from the Board.

4. The application shall be accompanied by a filing fee of \$500.00. The fee submitted with the application for an original or renewal license is not refundable in the event an application is denied.
5. The photograph and fingerprints of applicant or agent of the surety corporation taken by a law enforcement officer designated by the Board shall accompany the application.
6. The application shall be accompanied by a sworn financial statement. Each License applicant, whether for an original license or for renewal of an existing license, must prove, among other requirements, to the satisfaction of the Board and by a preponderance of the evidence presented, that the Applicant has possession of sufficient financial resources to provide Nueces County indemnity against any foreseeable loss on such obligations as may be undertaken by the Applicant.
7. The application shall be accompanied by three (3) letters of recommendation, each from a reputable person who has known applicant for at least three (3) years and states that applicant has a reputation for honesty, truthfulness, fair dealing and competency; and recommends that the board issue the license.
8. The Board may delegate to the members, and/or their designees, authority to investigate and conduct sworn examinations in application for, and/or renewal of, license, and into other matters such as, but not limited to, violations of any laws, rules and regulations.
9. If the applicant is or has been licensed under this chapter in another county, the application must include a list of each county in which the applicant holds a license and a statement by the applicant that, as of the date of the application, the applicant has no unpaid final judgments of forfeiture against the applicant in any county in which the applicant holds or has held a license.

**B. GRANTING OF LICENSE (§1704.157-§1704.159 Bail Bond Act)**

1. Preliminary Determinations: Prior to the hearing on the application, the Board License Committee shall conduct the necessary inquiries to determine whether the applicant possesses the financial responsibility and meets other requirements of the Bail Bond Act.
2. Hearing: At the hearing, the License Committee will make its recommendation to the Board.

At the hearing, the board may submit questions to the applicant or the applicant's agents, and the applicant is entitled to present oral and documentary evidence.

3. Decision on Application: If the Board is satisfied that no grounds exist on which to refuse the application, the board shall enter an order conditionally approving the application subject to the application being perfected by filing of the security deposits required of licensees, as provided in Article I, Section C (below) of these Rules. If the Board is not satisfied, it shall enter an order refusing the license.

### **C. ISSUANCE OF LICENSE**

1. Upon notice from the Board that the application has been conditionally approved, the applicant not later than the 90<sup>th</sup> day after the date of receipt of the notice shall perfect the application as follows:
  - a. Non-Exempt Real Property
    - i. Execute in trust to the board each deed to the property.
    - ii. The tendering of an insurance policy on the improvements.
    - iii. The total value of the property executed in trust may not be less than \$50,000.
  - b. Cash, Certificate(s) of Deposit, Cashier's Check or Cash Equivalent
    - i. Deposit with the County Clerk in the cash, cashier's check, or original certificate(s) of deposit in the amount indicated in the application, but in no event less than \$50,000.
    - ii. Certificate(s) of deposit shall be made payable to: Nueces County Clerk, Treasury.
2. The licensee and any spouse, and any other owners must join in the execution of the deed(s) of trust of non-exempt real property to be held in trust by the Board.
3. The Board shall file the deeds of trust in the records of each county in which the property is located. The applicant shall pay the filing fees.
4. A corporation acting as a surety shall file in the office of the Nueces County Clerk a power of attorney designating and authorizing the named agent of such corporation to execute bail bonds. A separate license is required for each agent operating under a corporate power of attorney.
5. A license shall be issued effective on the date the application is perfected.

## **II. EXPIRATION AND RENEWAL OF LICENSE (§1704.162 Bail Bond Act)**

1. A license expires twenty-four (24) months after the date of its issuance if the license has been issued for less than eight consecutive years or has been suspended. It may not be renewed unless an application for renewal is filed with the Board at least thirty-one (31) days before expiration. The renewal application shall have the same form and contents as an original license application. A renewal fee of \$500.00 shall accompany the renewal application. The license may be renewed if:
  - a. The current license has not been suspended or revoked.
  - b. The renewal application complies with the requirements of the Bail Bond Board Act.
  - c. The board does not determine that a ground exists to deny the application.
2. A license may be renewed for a period of 36 months from date of expiration if the person holds a license for at least eight consecutive years without having been suspended or revoked and complies with the requirements of the Bail Bond Act if the board knows of no legal reason why the license should not be renewed and determines that the applicant has submitted an annual financial report to each county bail bond board before the anniversary date of the issuance of the applicant's license.

## **III. LICENSE FORM (§1704.161 BAIL BOND ACT)**

1. Each license shall show on its face the date of expiration and license number. Each subsequent renewal license shall have the same Number as assigned to the original license.

## **IV. DENIAL, SUSPENSION AND REVOCATION OF LICENSE**

1. No license may be issued to any person who has not complied with the requirements of the Bail Bond Board Act or the Board rules.
2. If a license is finally suspended, expired, or otherwise revoked, the person will, under scrutiny by the Board or its designate, cease and refrain from using any and all listed advertising and related advertised telephone numbers associated with that license.

3. No person, firm or corporation that is not licensed to make bail bonds may use a phone number, address or advertising of any kind to solicit or refer any bond business to a licensee or to any non-licensee. Further, no licensee may use a phone number, address or office of a non-licensee to conduct any bail bond activities.
4. Investigation (§1704.251 Bail Bond Act) On its own motion, the Board may investigate the actions and records relating to a complaint against any bondsman it has licensed.
  - a. On receipt of a sworn complaint providing reasonable cause to believe that a violation of the Bail Bond Board Act or the Board rules has occurred, the Board on the request of a court shall investigate the actions and records relating to such complaint against any bondsman it has licensed.
5. Discretionary Grounds (§1704.252 Bail Bond Act) The Board may after notice and hearing, suspend or revoke a license for:
  - a. Violation of a provision of the Bail Bond Act or a rule prescribed by the Board;
  - b. Fraudulently obtaining a license under the provisions of the Bail Bond Board Act;
  - c. Making a false statement or misrepresentation in an application for an original or renewal license or in any hearing before the Board;
  - d. Refusing to answer any question submitted by the Board in a hearing relating to the license or the conduct or qualifications of the licensee or applicant;
  - e. Final conviction under the laws of this or any other state or of the United States of a misdemeanor involving moral turpitude or of a felony committed after the effective date of the Bail Bond Board Act;
  - f. Being adjudged bankrupt or becoming insolvent;
  - g. Being adjudged mentally incompetent;
  - h. Failing to pay within 30 days any final judgment rendered on any forfeited bond in any court of competent jurisdiction within the county of the licensee;
  - i. Paying of commissions or fees or dividing commissions or fees or offering to pay or divide commissions or fees with any

person, company, firm, or corporation not licensed under the Bail Bond Board Act to execute bonds;

- j. Soliciting bail bond business in any building where prisoners are processed or confined;
  - k. Recommending to any client the employment of a particular attorney or firm of attorneys in a criminal case;
  - l. Falsifying any records required to be maintained under the Bail Bond Act or failing to keep the records;
  - m. Failing promptly to permit the inspection of the records at any time requested by the Board or its representatives or agents;
  - n. Operating as a bondsman while the license is suspended or after it has expired and before it is renewed;
  - o. Failing two or more times to maintain the minimum amount of security required by the Bail Bond Board Act; or
  - p. Misrepresenting to any official or employee of the official the limit supported by the amount of security to obtain the release of any person on bond.
6. Mandatory Grounds (§1704.253 Bail Bond Act) If the licensee fails to maintain security deposit at the proper ratio required by the Texas Occupations Code, Chapter 1704, the Board shall immediately suspend the license while the violation continues. No prior notice of hearing is necessary. Once the proper ratio is regained, the suspension shall be immediately lifted.

## **V. PROCEDURE FOR SUSPENSION OR REVOCATION OF LICENSE; APPEAL**

1. Sworn complaints against a licensee shall be filed with the Secretary/Treasurer on forms, which will be provided. A copy of the complaint will be forwarded to the Community Relations Committee that will conduct a preliminary investigation. After its preliminary investigation, if the Community Relations Committee determines that the complaint should be brought to the attention of the Board, a copy of the complaint shall be sent to the licensee by certified mail, return receipt requested. The licensee shall respond to the complaint in writing within eleven (11) days after the receipt of the complaint.

2. After receipt of the licensee's response to the complaint, the Community Relations Committee will make its recommendation to the Board at the next regular meeting of the board. If the Board approves the license, notice of such hearing shall be given by Certified mail, return receipt requested, addressed to the last known address of the licensee, at least eleven days prior to a date set for the hearing.
3. Notice and Hearing (§1704.254 Bail Bond Act) The notice shall specify the charges of violation of the Bail Bond Board Act or the Board rules made against the licensee. No other charges shall be made at the hearing pursuant to the notice. The hearing shall afford to the licensee the opportunity to be heard, to present witnesses in his behalf and to question witnesses against him.
4. A record of the hearing shall be made. It shall be made available to the licensee on his request subject to his paying reasonable costs of transcription.
5. The Board shall revoke the license after notice and hearing if the licensee fails to pay any final judgment connected with the licensee's bonding business within thirty (30) days and there is not sufficient property held as security to satisfy the judgment.
6. If no appeal is taken within thirty-one (31) days after receipt of written notice of a board order suspending, revoking, or refusing to issue a license by the Board, such action shall become final. The decision of the Board shall have full force and effect pending the determination of an appeal.

## **VI. LICENSEE REQUIREMENTS**

### **A. RECORDS REQUIRED OF LICENSEE (§1704.202 Bail Bond Act)**

1. Bondsmen licensed under the Bail Bond Board Act shall maintain a record of each bond on which the bondsman appears as surety and shall maintain a separate set of records for each county in which the bondsman is licensed. The records shall include the following information for each bond executed and enforced:
  - a. A style and number of the cause in which the bond is given and the court in which it is executed.
  - b. The name of the defendant released on bond.
  - c. The amount of the bail set in the case; and

- d. The amount and type of security held by the bondsman, together with a statement as to whether the security was taken for payment of a bail bond fee or for assurance of the principal's appearance in court and the conditions under which the security will be returned. No security shall be held for both the payment of a bail bond fee and assurance of the principal's appearance in court that is in excess of the particular risk involved.
2. The records shall be submitted to the board or a person designated by the Board for inspection prior to each renewal of the bondsman's license and shall be available for inspection on demand by the board or its authorized representative.

## **VII. ENFORCEMENT PROVISIONS**

- A. Any Procedures and Practices not specifically covered by these Rules shall be governed by Chapter 1704 Texas Occupations Code and the Texas Code of Criminal Procedure, and all licensees are hereby placed on notice that ignorance of the law is no excuse or defense to the Suspension of and/or Revocation of his/her license.
- B. A violation of any of the Rules or Regulations of the Nueces County Bail Bond Board or the Laws of the State of Texas as they relate to bail bond activities shall be considered as grounds for Suspension and/or Revocation of any License.

## **VIII. MISCELLANEOUS**

- A. All licensees must maintain an office in Nueces County and must notify the Board within seven (7) days of opening a new office or moving an existing office to a new location. For purposes of these rules, "office" is defined as any location where a licensee conducts bail bond business, maintains business records, employs staff, meets with clients, accepts payment for bonds, and/or installs and maintains an advertised phone number.
- B. No licensee may use a phone number, address or name to advertise or solicit bonds or maintain any separate (sub) offices without prior approval by the Board. Further, no licensee, agent or individual may advertise or solicit under an assumed name without being properly licensed by the Board and displaying a valid license number on all advertisements.
- C. Each licensee or agent who uses an assumed name must submit to the Board a valid Assumed Name Certificate or certified copy thereof properly filed with the Nueces County Clerk's Office.

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- D. No license may be issued to any entity for an assumed name or any derivative of an assumed name that already exists or if there are any unpaid bond forfeiture judgments against that assumed name.
- E. These individual rules may be amended, modified or deleted at any time by vote of at least seven (7) Board members.