

State of Utah
Administrative Rule Analysis
 Revised November 2021

NOTICE OF PROPOSED RULE		
TYPE OF RULE: New ___; Amendment _x_; Repeal ___; Repeal and Reenact ___		
Title No. - Rule No. - Section No.		
Utah Admin. Code Ref (R no.):	R590-186	Filing ID (Office Use Only)
Changed to Admin. Code Ref. (R no.):	R	

Agency Information

1. Department:	Insurance	
Agency:	Administration	
Room no.:	Suite 2300	
Building:	Taylorsville State Office Building	
Street address:	4315 S. 2700 W.	
City, state and zip:	Taylorsville, UT 84129	
Mailing address:	PO Box 146901	
City, state and zip:	Salt Lake City, UT 84114-6901	
Contact person(s):		
Name:	Phone:	Email:
Steve Gooch	801-957-9322	sgooch@utah.gov
Please address questions regarding information on this notice to the agency.		

General Information

2. Rule or section catchline:
R590186. Bail Bond Business
3. Purpose of the new rule or reason for the change (Why is the agency submitting this filing?):
The rule is being changed in compliance with Executive Order 2021-12. During the review of this rule, the department discovered a number of minor issues that needed to be amended.
4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):
The majority of the changes are being done to fix style issues to bring the rule text more in line with current rulewriting standards. Other changes make the language of the rule more clear, update the Severability section to use the department's current language, and remove the Penalties section because penalties are already provided for in statute. The changes do not add, remove, or change any regulations or requirements.

Fiscal Information

5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:
A) State budget:
There is no anticipated cost or savings to the state budget. The changes are largely clerical in nature, and will not change how the department functions.
B) Local governments:
There is no anticipated cost or savings to local governments. The changes are largely clerical in nature, and will not affect local governments.
C) Small businesses ("small business" means a business employing 1-49 persons):
There is no anticipated cost or savings to small businesses. The changes are largely clerical in nature, and will not affect small businesses.
D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There is no anticipated cost or savings to non-small businesses. The changes are largely clerical in nature, and will not affect non-small businesses.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

There is no anticipated cost or savings to any other persons. The changes are largely clerical in nature.

F) Compliance costs for affected persons (How much will it cost an impacted entity to adhere to this rule or its changes?):

There are no compliance costs for any affected persons. The changes are largely clerical in nature.

G) Comments by the department head on the fiscal impact this rule may have on businesses (Include the name and title of the department head):

After conducting a thorough analysis, it was determined that this proposed rule amendment will not result in a fiscal impact to businesses. — Jonathan T. Pike, Insurance Commissioner

6. A) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2022	FY2023	FY2024
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Cost	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	\$0	\$0	\$0

B) Department head approval of regulatory impact analysis:

The Commissioner of Insurance, Jonathan T. Pike, has reviewed and approved this fiscal analysis.

Citation Information

7. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:

Section 31A-35-104	Section 31A-35-301	

Incorporations by Reference Information

(If this rule incorporates more than two items by reference, please include additional tables.)

8. A) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; *if none, leave blank*):

	First Incorporation
Official Title of Materials Incorporated (from title page)	
Publisher	
Date Issued	

Issue, or version	
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B) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; <i>if none, leave blank</i>):	
	Second Incorporation
Official Title of Materials Incorporated (from title page)	
Publisher	
Date Issued	
Issue, or version	

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. See Section 63G-3-302 and Rule R15-1 for more information.)		
A) Comments will be accepted until (mm/dd/yyyy):	05/02/2022	
B) A public hearing (optional) will be held:		
On (mm/dd/yyyy):	At (hh:mm AM/PM):	At (place):

10. This rule change MAY become effective on (mm/dd/yyyy):	05/09/2022
NOTE: The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date. To make this rule effective, the agency must submit a Notice of Effective Date to the Office of Administrative Rules on or before the date designated in Box 10.	

Agency Authorization Information

To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the <i>Utah State Bulletin</i> and delaying the first possible effective date.		
Agency head or designee, and title:	Steve Gooch, Public Information Officer	Date (mm/dd/yyyy): 03/09/2022

R590. Insurance, Administration.

R590-186. Bail Bond Business.

R590-186-1. Purpose.

~~_____ This rule establishes criteria and procedures for licensing a bail bond agency and sets standards of conduct.~~

R590-186-2. Authority.

This rule is promulgated by the commissioner pursuant to[
~~_____ (1) Section 31A-35-104 which requires the commissioner to adopt by rule specific licensure and certification guidelines and standards of conduct for the bail bond business;~~
~~_____ (2) Subsection 31A-35-301(1) which authorizes the commissioner to adopt rules necessary to administer Title 31A, Chapter 35;~~
~~_____ (3) Subsection 31A-35-401(2) which allows the commissioner to require by rule additional information from bail bond agency license applicants; and~~
~~_____ (4) Subsection 31A-35-406(1)(b) which allows the commissioner to establish by rule the annual renewal date for the renewal of a license as a bail bond agency] Sections 31A-35-104 and 31A-35-301.~~

R590-186-3]2. Purpose and Scope[and Applicability].

~~_____ [This rule applies to any person engaged in the bail bond business](1) The purpose of this rule is to establish~~
~~_____ (a) licensing criteria;~~
~~_____ (b) certification guidelines; and~~
~~_____ (c) standards of conduct for the bail bond business.~~
~~_____ (2) This rule applies to a person licensed as:~~

- (a) a bail bond agency;
- (b) a bail bond producer; or
- (c) a surety insurer.

R590-186-3. Definitions.

Terms used in this rule are defined in Sections 31A-1-301 and 31A-35-102. Additional terms are defined as follows:

- (1) "Bail bond business" means engaging in conduct authorized under Title 31A, Chapter 35, Bail Bond Act.
- (2) "Persons or members of their immediate families," used in Subsection 31A-35-701(5), means a spouse, child, stepchild, child-in-law, parent, sibling, parent-in-law, sibling-in-law, stepparent, stepsibling, or half-sibling.
- (3) "Unprofessional conduct" means a violation of an insurance law, rule, or order of the commissioner.

R590-186-4. Initial and Renewal Agency License.

- (1) ~~[Applications]~~ An application for an initial ~~[and]~~ or a renewal bail bond agency license shall be filed with the commissioner.
- (2) ~~[The applicant shall provide the following with the application]~~ An application shall include:
 - (a) ~~[the]~~ an initial or renewal license fee ~~[in R590-102-16]~~ as set forth in Rule R590-102; and
 - (b) proof that ~~[the]~~ an applicant satisfies the minimum financial requirements for a bail bond agency license ~~[set forth in]~~ under Section 31A-35-404.

R590-186-5. Bail Bond Producer License and Renewal.

- (1) ~~[Bail bond agencies and]~~ A bail bond agency or surety insurer ~~[s must]~~ shall issue a bail bond ~~[s]~~ through a licensed bail bond producer ~~[s]~~ who ~~[have been]~~ is designated by the bail bond agency or ~~[have been]~~ is contracted with and appointed by the surety insurer.
- (2) ~~[All persons]~~ (a) A person doing business as a bail bond producer ~~[s must]~~ shall be licensed in accordance with:
 - (i) Title 31A, Chapter 23a, Insurance Marketing - Licensing Producers, Consultants, and Reinsurance Intermediaries;
 - (ii) Section 31A-35-406 ~~[,]~~; and
 - (iii) any applicable rule ~~[s]~~ regarding individual producer licensing. ~~[Bail]~~
- (b) A bail bond producer license ~~[s are]~~ is an individual limited line license ~~[s]~~. ~~[These licenses are]~~
- (c) A bail bond producer license is issued for a two-year period and requires no licensing examination or continuing education ~~[. Individual bail bond producer licenses must be renewed at the end of the two year licensing period].~~

R590-186-6. Unprofessional Conduct.

~~[Persons in the bail bond business]~~ A person licensed as a bail bond agency, a bail bond producer, or a surety insurer may not engage in unprofessional conduct ~~[. Unprofessional conduct means the violation of any applicable insurance law, rule or valid order of the commissioner, or the commission of], which includes any of the following acts:~~

- (1) having a professional or occupational license revoked in this or any other state;
- (2) being involved in a ~~[ny]~~ transaction ~~[which]~~ that shows unfitness to act in a fiduciary capacity;
- (3) willfully misstating or negligently reporting a ~~[ny]~~ material fact in the initial or renewal application or procuring a misstatement in ~~[the]~~ a document ~~[s]~~ supporting ~~[the]~~ an initial or renewal application;
- (4) being the subject of a ~~[ny]~~ outstanding civil judgment ~~[which would reduce the]~~ that reduces a bail bond agency's net worth below the minimum required for licensure;
- (5) being convicted of a ~~[ny]~~ felony ~~[or]~~;
- (6) being convicted of a ~~[ny]~~ misdemeanor that involves the misappropriation of money or property, dishonesty, or perjury;
- (~~[6]~~7) failing to report ~~[ny]~~ collateral taken as security on a ~~[ny]~~ bail bond to the principal, indemnitor, or depositor of such collateral;
- (~~[7]~~8) failing to preserve, or to retain separately, or both, any collateral taken as security on a ~~[ny]~~ bail bond;
- (~~[8]~~9) failing to return collateral taken as security on a ~~[ny]~~ bail bond to the depositor of such collateral, or the depositor's designee, within ten business days of ~~[having been]~~ being notified of the exoneration of the bail bond or upon payment of all fees owed to the bail bond agent, whichever is later;
- (~~[9]~~10) failing to advise the commissioner of a ~~[ny]~~ change that has reduced the bail bond agency's net worth below the minimum required for licensure;
- (~~[10]~~11) using a relationship with a ~~[ny]~~ person employed by a jail facility or incarcerated in a jail facility to obtain ~~[bonding]~~ bail bond referrals;
- (~~[11]~~12) offering consideration or ~~[gratuities]~~ a gratuity to jail personnel ~~[or]~~, a peace officer ~~[s or]~~, or an inmate ~~[s]~~ under a ~~[ny]~~ circumstance ~~[s which would permit the inference that said]~~ that infers the consideration was offered to induce ~~[bonding]~~ a bail bond referral ~~[s]~~ or recommendation ~~[s]~~;
- (~~[12]~~13) failing to deliver to ~~[the]~~ an incarcerated person, or ~~[the]~~ a person arranging bail on behalf of ~~[the]~~ an incarcerated person, ~~[prior to]~~ before the time the incarcerated person is released from jail, a one ~~[]-~~ page disclosure form ~~[which at a minimum]~~ that includes:
 - (a) the amount of the bail;
 - (b) the amount of the bail bond agency's fee, including bail bond premium, preparation fees, and credit transaction fees;
 - (c) the additional collateral, if any, that will be held by the bail bond agency;

- (d) the incarcerated person's obligations to the bail bond agency and the court;
- (e) the conditions upon which the bail bond may be revoked;
- (f) ~~[any]~~ additional charges or interest that may accrue;
- (g) ~~[any]~~ co-signors or indemnitors that will be required; and
- (h) the conditions under which the bail bond may be exonerated and the collateral returned[-];
- ~~(13)14~~ using an unlicensed bail bond agent or unlicensed bail bond enforcement agent;
- ~~(14)15~~ using a bail bond agent not contracted and appointed by a bail bond agency or surety insurer;
- ~~(15)16~~ charging excessive or unauthorized premiums, excessive fees, or other unauthorized charges;
- ~~(16)17~~ requiring unreasonable collateral security;
- ~~(17)18~~ failing to provide an itemized statement of ~~[all]~~ expenses deducted from collateral[-, if any];
- ~~(18)19~~ ~~[requiring as a condition of executing a bail bond that the bond purchaser agree to engage the services of a specified attorney]~~ requiring that a specific attorney be used as a condition to execute a bail bond;
- ~~(19)20~~ preparing or issuing a fraudulent or forged bail bond[s] or power of attorney;
- ~~(20)21~~ signing, executing, or issuing a bail bond[s] by an unlicensed person;
- ~~(21)22~~ executing a bail bond[s] without countersignature by a licensed bail bond producer at time of issue;
- ~~(22)23~~ failing to account for and ~~[to]~~ pay ~~[any]~~ premiums held by ~~[the licensee]~~ a bail bond producer or a bail bond agency in a fiduciary capacity to the bail bond agency, surety insurer, or other person who ~~[is entitled to]~~ may receive them;
- ~~(23)24~~ knowingly violating, advising, encouraging, or assisting ~~[the violation of any]~~ in violating a statute, court order, or injunction in the course of ~~[a]~~ the bail bond business~~[regulated under Title 31A, Chapter 35;~~
- ~~(24)~~ conviction of felony involving illegally using, carrying, or possessing a dangerous weapon];
- (25) conviction of an~~[y]~~ act of personal violence or force against any person or conviction of threatening to commit an~~[y]~~ act of personal violence or force against any person, including ~~[but not limited to]~~ a violent ~~[felonies]~~ felony as defined under Section 76-3-203.5;
- (26) soliciting a sexual favor[s] as a condition of obtaining, maintaining, or exonerating a bail bond, regardless of the identity of the person who performs the favor[s];
- (27) acting as an unlicensed bail bond enforcement agent;
- (28) failing to ~~[comply with]~~ satisfy an outstanding judgment[s]; and
- (29) using deceptive or intimidating practices.

R590-186-7. Investigating Unprofessional Conduct.

- (1) The commissioner shall investigate a complaint[s] of unprofessional conduct submitted in writing to the commissioner.
- ~~(2) Once [the]an investigation is complete, the commissioner shall report findings and a recommended disposition to the board. [That report shall be]~~
- ~~(3) A report from the commissioner is confidential and may not be disclosed beyond the [Insurance D]department and the board.~~
- (4) After obtaining the board's ~~[comments and]~~ recommendations concerning ~~[the report]~~an investigation, the commissioner will determine the appropriate disposition.

R590-186-8. Bonding Limits.

- (1) A bail bond agency that maintains a qualified power of attorney from a surety insurer may not maintain outstanding bail bond obligations ~~[in excess of]~~over the amount allowed by the surety insurer.
- (2) A bail bond agency that pledges assets of a letter of credit or pledges personal or real property may not maintain outstanding bail bond obligations ~~[in excess of]~~over the amounts provided in the table below:

[TABLE

Financial Requirements — Ratio of Outstanding Bond
 — Obligations to Letter of
 — Credit or Net Worth and
 — Liquidity Amounts

\$250,000 line of credit — licensed 0 to 36 months: 5 to 1
 or net worth/\$50,000 — licensed over 36 months: 5 to 1
 liquidity)

300,000 or more line of — licensed 0 to 36 months: 5 to 1
 credit limit or net worth/ — licensed over 36 months: 10 to 1
 at least \$100,000 liquidity]

TABLE	
Financial Requirements	Ratio of Outstanding Obligations to Letter of Credit or Net Worth and Liquidity Amounts
\$250,000 line of credit or net worth, or \$50,000 liquidity	Licensed 0 to 36 months: 5 to 1
	Licensed over 36 months:

	<u>5 to 1</u>
<u>\$300,000 or more line of credit limit or net worth, or at least \$100,000 liquidity</u>	<u>Licensed 0 to 36 months:</u> <u>5 to 1</u>
	<u>Licensed over 36 months:</u> <u>10 to 1</u>

(3) The commissioner may reduce the bail bonding limit of a bail bond agency that is backed by a letter of credit or a ~~[property bail bond agency who has qualified for]~~ bail bond agency that pledges personal or real property, if the bail bond agency meets the 10 to 1 ratio ~~[if that]~~ and the bail bond agency's line of credit ~~[limit or]~~ , net worth, or liquidity limit falls below the limits stated in Subsection (2) ~~[above]~~.

R590-186-9. ~~Definition.~~

~~For the purpose of Subsection 31A-35-701(5), "members of their immediate families" means spouse, children, stepchildren, children in law, mother, father, brother, sister, mother in law, father in law, sister in law, brother in law, step mother, step father, step brother, step sister, half brother, or half sister.~~

R590-186-10. ~~Penalties.~~

~~Violations of this rule are punishable pursuant to Section 31A-2-308.~~

R590-186-11. ~~Severability.~~

~~[If any provision of this rule or its application to any person or situation is held to be invalid, that invalidity shall not affect any other provision or application of this rule which can be given effect without the invalid provision or application, and to this end the provisions of this rule are declared to be severable]~~ If any provision of this rule, Rule R590-186, or its application to any person or situation is held invalid, such invalidity does not affect any other provision or application of this rule that can be given effect without the invalid provision or application. The remainder of this rule shall be given effect without the invalid provision or application.

KEY: insurance

Date of Last Change: 2022 ~~[June 21, 2019]~~

Notice of Continuation: July 10, 2018

Authorizing, and Implemented or Interpreted Law: 31A-35-104; 31A-35-301; 31A-35-401; 31A-35-406

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