

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.):	R590-196	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:
R590-196. Bail Bond Premium and Fee Standards, Collateral Standards, and Disclosure Form
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 If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):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 Enforcement Date and Penalties sections because the rule is already in force and 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		

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; *if none, leave blank*):

	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): 05/31/2022

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): 06/07/2022

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 *Utah State Bulletin* and delaying the first possible effective date.

Agency head or designee, and title:	Steve Gooch, Public Information Officer	Date (mm/dd/yyyy):	04/15/2022
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R590. Insurance, Administration.

R590-196. Bail Bond [~~Surety~~]Premium and Fee Standards, Collateral Standards, and Disclosure Form.

R590-196-1. [~~Purpose~~

~~This rule establishes uniform fee and collateral standards for bail bond surety business in the State of Utah.~~

R590-196-2. [~~Authority~~

~~This rule is promulgated pursuant to Section 31A-35-104 which requires the commissioner to adopt by rule standards of conduct for bail bond surety business.~~

R590-196-3. [~~Scope and Applicability~~

~~This rule applies to any person engaged in bail bond surety business.]**Authority.**~~

~~This rule is promulgated by the commissioner pursuant to Section 31A-35-104.~~

R590-196-2. Purpose and Scope.

(1) The purpose of this rule is to establish:

(a) uniform premium and fees; and

(b) collateral standards.

(2) This rule applies to a person engaged in the bail bond business.

R590-196-3. 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.

R590-196-4. Premium and Fee Standards.

- (1) Initial bail bond premium and fees.
 - (a) Bail bond premium amounts:
 - (i) the minimum [fee-]premium charged may not be less than 10% of the bail bond amount; and
 - (ii) the maximum [fee-]premium charged may not [to-]exceed 20% of the bail bond amount.
 - (b) [Document-]A document preparation fee may not exceed \$20 per set of forms [pertaining to one-]relating to a bail bond.
 - (c) [Credit-]A credit card fee may not exceed 5% of the amount charged to [the-]a credit card.
- (2) Additional fees.
 - (a) [These fees-]Fees are limited to actual and reasonable expenses incurred by [the bail bond surety because]a surety insurer or a bail bond agency when:
 - (i) the defendant fails to appear before the court at [any-]a designated date[s] and time[s];
 - (ii) the defendant fails to comply with [the-]a court order; or
 - (iii) the defendant or the co-signer fails to comply with the terms of [the-]a bail bond agreement [and any-]or a promissory note[s-pertaining-] relating to that agreement.
 - (b) Reasonable mileage expense [fee for mileage is-]fees are allowed pursuant to the Internal Revenue Service standard [for business mileage]mileage rates for a business.
 - (c) [Apprehension-]Reasonable apprehension expenses such as meals, lodging, commercial travel, and communication[s, whether or not-], regardless of whether the defendant is apprehended, are limited to actual expenses incurred and must be reasonable, [i.e.]for example, meals at mid-range restaurants, lodging at mid-range hotels, commercial travel in coach class, etc.
 - (d) [Reasonable collateral-]Collateral expense fees are allowed for:
 - (i) actual expenses to obtain collateral; and
 - (ii) storage expenses, if in a secured storage area, limited to actual expenses.
 - (e) A late payment fee of \$20 or 5% of the delinquent periodic payment, whichever is less, is allowed.
 - (f) If a fee is charged by [the-]a court or [the-]a jail to process a bail bond, the actual fee charged may be passed through to the defendant or the co-signer.

R590-196-5. Collateral Standards.

- (1) Collateral may be provided to:
 - _____ (a) secure bail bond fees[-];
 - _____ (b) secure the face amount of [the-]a bail bond[issued-]; or
 - _____ (c) both.
- (2) If [the bail bond-]a surety insurer or a bail bond agency accepts the same collateral to secure the bail bond fee[s] and the face amount of [the-]a bail bond[issued, then, in the event of a failure to pay bail bond fees when due], the collateral may not be converted until the bail bond is exonerated or judgment entered against the surety insurer or bail bond agency and the depositor has been given [no less than-]at least 15 days to pay any bail bond fees owing.
- (3) If [the bail bond-]a surety insurer or bail bond agency accepts different collateral to secure the bail bond fee and the face amount of [the-]a bail bond[issued then]:
 - (i) the collateral securing the bail bond fees may not be converted until payment has been defaulted under the terms of the promissory note for those fees, and the depositor of the collateral has been given [no less than-]at least 15 days to make the required payment;
 - (ii) the collateral securing the face amount of the bail bond [issued-]may not be converted until the bail bond is exonerated or judgment entered against the surety insurer or bail bond agency and the depositor of the collateral has been given [no less than-]at least 15 days to reimburse the [bail bond-]surety insurer or bail bond agency for any amounts owed to the [bail bond-]surety insurer or bail bond agency.
- (4) [The bail bond-]A surety insurer, [its agents-]a bail bond agency, or a bail bond producer taking possession of collateral[, or both, will hold said-] shall hold the collateral as a fiduciary until [such time as-]ownership of the collateral passes to the [bail bond-]surety insurer or bail bond agency.
- (5) Collateral held [as a fiduciary-]may not be used by [the bail bond surety or its agents-]a surety insurer, a bail bond agency, or a bail bond producer without the specific written permission of the depositor of the collateral.
- (6) [Should-]If proceeds from converted collateral exceed the outstanding balance due, the [bail bond surety will-]surety insurer or bail bond agency shall return the excess proceeds to the depositor of the collateral.
- (7) Notice under [the rule shall be deemed-]this rule is proper if [it is-]sent via first class mail to the address provided by the depositor of the collateral.

R590-196-6. Disclosure Form.

[The bail bond surety and its agents will-]A surety insurer, bail bond agency, or bail bond producer shall use the following disclosure form, or a form that contains substantially similar language.

[TABLE

Defendant.....Co-Signer.....
Court.....Charge.....
Bond amount \$.....Bond number.....
Initial Fees, non-refundable.
.....bail bond premium, maximum: no more than 20%;
.....minimum: not less than 10%;.....\$.....
.....document preparation, not to exceed \$20
.....per set of bond forms.....\$.....
.....credit card fee, not to exceed 5% of amount
.....charged to credit card.....\$.....
.....total initial fees \$.....

Additional Fees.

— (1) Limited to actual and reasonable expenses required because the defendant fails to appear before the court at any designated times, or fails to comply with the court order, or fails to comply with the terms of the bail bond agreement or any promissory notes pertaining to that agreement. The following are some reasonable expense fees:

- (i) reasonable expense fee for mileage is IRS mileage reimbursement standard for business miles;
- (ii) reasonable apprehension expense fees include meals at mid-range restaurants, lodging at mid-range hotels, transportation at no more than coach fares; and
- (iii) reasonable collateral expense fees: actual expenses to obtain collateral and, actual storage expenses, if collateral is in a secured storage area.

— (2) A late payment fee of \$20 or 5% of the delinquent periodic payment whichever is less.

— (3) If a fee is charged by the court or the jail to process a bail bond, the actual fee charged may be passed through to the defendant or the co-signer.

Grounds for revocation of bond.

— Should the defendant violate any of the following, the defendant shall be subject to immediate bond revocation and the defendant, or the co-signer, or both, shall be subject to all the costs incurred to return the defendant to the court.

Grounds for revocation include the following:

- (a) the defendant or co-signer providing materially false information on bail bond application;
- (b) the court's increasing the amount of bail beyond sound underwriting criteria employed by the bail bond agent or bail bond surety;
- (c) a material and detrimental change in the collateral posted by the defendant or one acting on defendant's behalf;
- (d) the defendant changes their address or telephone number or employer without giving reasonable notice to the bail bond agent or bail bond surety;
- (e) the defendant is arrested for another crime, other than a minor traffic violation, while on bail;
- (f) the defendant is back in jail in any jurisdiction and revocations can be served prior to the defendant being released;
- (g) failure by the defendant to appear in court at any appointed times;
- (h) finding of guilt against the defendant by a court of competent jurisdiction;
- (i) a request by the co-signer based on reasons (a) through (h) above. Items (a) through (h) pertain to the defendant; items (a), (c), (e) (g), and (i) pertain to co-signers, if any.

Collateral.

— The following has been given as collateral to guarantee all court appearances of the defendant until the bond is exonerated:

.....
.....

— The following has been given as collateral to guarantee payment of bond fees:

.....
.....

— In the event judgment is entered against the surety or the bonding fee is not paid according to the terms of the bail bond agreement and its promissory note, if any, following written notice to the undersigned of such judgment or non-payment, the undersigned authorize XYZ Bail Bonds to convert the appropriate collateral to collect the judgment or the unpaid bond fees. Should proceeds from the sale of the appropriate collateral be insufficient to cover the outstanding balance due, the defendant, the co-signer, or both, agree to be personally liable for the difference. Should proceeds from the sale exceed the outstanding balance, the difference will be returned to the depositor of the collateral. The depositor's signature below constitutes acknowledgment of a Bill of Sale for the

collateral. The depositor accepts this agreement as a bill of sale for the collateral.

—By signing below I certify that I have read and understand this disclosure form, the bail bond agreement and its attached promissory note, if any. I certify under penalty of perjury that all information given to XYZ Bail Bonds verbally and in writing on all documents relevant to this bond are true and accurate. The co-signer agrees that should the co-signer request XYZ Bail Bonds to revoke the defendant's bond, with or without probable cause, the co-signer will be responsible to pay XYZ Bail Bonds and their agents for the time returning the defendant to jail at the rates stated above, in additional fees. If requested by the co-signer to revoke the bond without probable cause, the co-signer will be responsible to reimburse the defendant his bond fees.

Date.....Defendant.....

Date.....Co-signer.....

Date.....Depositor.....

I,....., agent of XYZ Bail

Bonds, certify that I have given a copy of all documents pertaining to this bail bond agreement to the defendant, the co-signer, the depositor, or any of the above, at the time and date said bail bond agreement was executed.

Date.....Bail Bond Agent.....]

<u>TABLE</u>	
<u>XYZ Bail Bonds Disclosure Form</u> 1234 South 1234 East, Salt Lake City, UT 84444; 801-123-4567 fax: 801-098-7654	
<u>Defendant:</u>	<u>Cosigner:</u>
<u>Court:</u>	<u>Charge:</u>
<u>Bail bond amount:</u>	<u>Bail bond number:</u>
<u>Initial Premium and Fees, non-refundable.</u>	
<u>...bail bond premium, maximum: no more than 20%; minimum: not less than 10%</u>	<u>\$.....</u>
<u>...document preparation, not to exceed \$20 per set of bail bond forms</u>	<u>\$.....</u>
<u>...credit card fee, not to exceed 5% of amount charged to credit card</u>	<u>\$.....</u>
<u>total initial premium and fees</u>	<u>\$.....</u>
<u>Additional Fees.</u>	
<u>(1) Limited to actual and reasonable expenses required because the defendant fails to appear before the court at any designated time, fails to comply with a court order, or fails to comply with the terms of a bail bond agreement or a promissory note pertaining to that agreement. The following are reasonable expense fees:</u>	
<u>(i) reasonable mileage expense fee pursuant to IRS standard mileage rates for business;</u>	
<u>(ii) reasonable and actual apprehension expense fees, including meals at mid-range restaurants, lodging at mid-range hotels, transportation at no more than coach fares; and</u>	
<u>(iii) collateral expense fees: actual expenses to obtain collateral and actual storage expenses, if collateral is in a secured storage area.</u>	
<u>(2) A late payment fee of \$20 or 5% of the delinquent periodic payment whichever is less.</u>	
<u>(3) If a fee is charged by a court or a jail to process a bail bond, the actual fee charged may be passed through to the defendant or the co-signer.</u>	

<u>Grounds for Revocation of a Bail Bond.</u>	
<u>(1) If the defendant violates any of the following, the defendant shall be subject to immediate bond revocation and the defendant, or the co-signer, or both, shall be subject to all the costs incurred to return the defendant to the court.</u>	
<u>(2) Grounds for revocation include the following:</u>	
<u>(a) the defendant or co-signer providing materially false information on bail bond application;</u>	
<u>(b) the court's increasing the amount of bail beyond sound underwriting criteria employed by the bail bond producer, bail bond agency, or surety insurer;</u>	
<u>(c) a material and detrimental change in the collateral posted by the defendant or someone acting on defendant's behalf;</u>	
<u>(d) the defendant changes their address or telephone number or employer without giving reasonable notice to the bail bond producer, bail bond agency, or surety insurer;</u>	
<u>(e) the defendant is arrested for another crime, other than a minor traffic violation, while on bail;</u>	
<u>(f) the defendant returns to jail in any jurisdiction and revocation is served on the defendant before the defendant is released;</u>	
<u>(g) failure by the defendant to appear in court at any appointed time;</u>	
<u>(h) the defendant is found guilty by a court of competent jurisdiction;</u>	
<u>(i) a request by the co-signer based on reasons (a) through (h) above.</u>	
<u>Items (a) through (h) pertain to the defendant; items (a), (c), (e) (g), and (i) pertain to co-signers, if any.</u>	
<u>Collateral.</u>	
<u>The following has been given as collateral to guarantee all court appearances of the defendant until the bail bond is exonerated:</u>	<u>List collateral.....</u>
<u>The following has been given as collateral to guarantee payment of bail bond premium or fees:</u>	<u>List collateral.....</u>
<u>If judgment is entered against the surety insurer or bail bond agency, or the bonding premium or fee is not paid according to the terms of the bail bond agreement and its promissory note, if any, following written notice to the undersigned of such judgment or non-payment, the undersigned authorize XYZ Bail Bonds to convert the appropriate collateral to collect the judgment or the unpaid bail bond premium or fees. If proceeds from the sale of the collateral are insufficient to cover the outstanding balance due, the defendant, the co-signer, or both, agree to be personally liable for the difference. If proceeds from the sale exceed the outstanding balance, the difference will be returned to the depositor of the collateral. The depositor's signature below constitutes acknowledgment of a Bill of Sale for the collateral. The depositor accepts this agreement as a bill of sale for the</u>	

collateral.

By signing below, I certify that I have read and understand this disclosure form, the bail bond agreement and its attached promissory note, if any. I certify under penalty of perjury that all information given to XYZ Bail Bonds verbally and in writing on all documents relevant to this bail bond are true and accurate. The co-signer agrees that should the co-signer request XYZ Bail Bonds to revoke the defendant's bail bond, with or without probable cause, the co-signer will be responsible to pay XYZ Bail Bonds and their agents for the time returning the defendant to jail at the rates stated above, in additional fees. If the co-signer requests to revoke the bail bond without probable cause, the co-signer will be responsible to reimburse the defendant the bail bond premium or fees.

Date: _____ Defendant: _____

Date: _____ Co-Signer: _____

Date: _____ Depositor: _____

I,....., agent of XYZ Bail Bonds, certify that I have given a copy of all documents pertaining to this bail bond agreement to the defendant, the co-signer, the depositor, or any of the above, at the time and date said bail bond agreement was executed.

Date: _____ Bail Bond Agent: _____

~~R590-196-7. [Penalties.~~

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

~~R590-196-8. [Severability.~~

~~[If any provision or clause of this rule or its application to any person or situation is held invalid, such 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 and the provisions of this rule are declared to be severable.~~

~~R590-196-9. Enforcement Date.~~

~~The commissioner will begin enforcing the revised provision of this rule 45 days from the rule's effective date]If any provision of this rule, Rule R590-196, 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, bail bonds

Date of Last Change: 2022[April 14, 2010]

Notice of Continuation: November 15, 2019

Authorizing, and Implemented or Interpreted Law: 31A-35-104

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