



## Insurance Department

TODD E. KISER  
*Insurance Commissioner*

### State of Utah

GARY R. HERBERT  
*Governor*

SPENCER J. COX  
*Lieutenant Governor*

### BULLETIN 2016 – 5

TO: All Bail Bond Surety Companies  
FROM: Todd E. Kiser, Utah Insurance Commissioner  
DATE: December 5, 2016  
SUBJECT: **Cash Bail**

The purpose of this Bulletin is to highlight and emphasize that, in regards to criminal bail transactions, Utah licensed bail bond agencies may not sell cash bail contracts, post cash bail, or loan money to defendants for cash bail. The Department has reason to believe that a few bail bond agencies may be in violation.

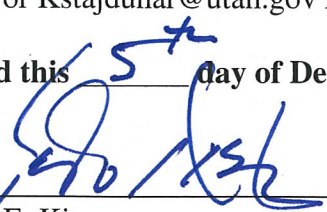
Under Utah Code § 31A-35-402(1), in a criminal bail transaction “a bail bond agency may only sell bail bonds,” no other products or services. According to Utah Code § 31A-35-102(1), a bail bond means a bail bond insurance product for a specific monetary amount that is executed by a bail bond agency, as surety for a criminal defendant, and issued to a court as security for the defendant’s subsequent court appearance. Thus, a bail bond agency may only post bail by this method of a written bail bond undertaking.

Also, under Utah Code § 77-20-4(1), the only legally authorized method of bail that may be posted by a surety is a written undertaking, which is a bail bond. Cash bail is neither a bail bond nor a written undertaking. In cases of cash bail, which is a sum of money, rather than a surety bond, paid into Court by, or on behalf of, a criminal defendant to secure the defendant’s jail release, it is the court deposited cash, not a bail bond, that secures the defendant’s subsequent court appearance.

For these reasons, no bail bond forms may incorporate language referring to cash bail or to money loaned for cash bail. The Department intends to pursue any necessary enforcement actions against licensees that engage in prohibited bail transactions or use prohibited bail bond forms.

Please contact Cathy Burton, Market Conduct Examiner, at (801) 537-9113 or [caburton@utah.gov](mailto:caburton@utah.gov) regarding this Bulletin; or Kathy Stajduhar, Property/Casualty Rate/Form Analyst, at (801) 538-3822 or [Kstajduhar@utah.gov](mailto:Kstajduhar@utah.gov) regarding bail bond forms.

Dated this 5<sup>th</sup> day of December, 2016

  
\_\_\_\_\_  
Todd E. Kiser  
Utah Insurance Commissioner