



State of Utah

GARY R. HERBERT
Governor
GREG BELL
Lieutenant Governor
NEAL T. GOOCH
Insurance Commissioner

Insurance Department

Bail Bond Oversight Board Meeting

(http://www.insurance.utah.gov/producers/bailbond_board.html)

Date: January 8, 2014 **Time:** Noon **Place:** Spruce Room, East Bldg.

Board Members

(Attendees = x)

xBrad Jenkins (Chair)	xRyan Cooper (Co-Chair)
xGordon Wright	xCraig Crawford
xLt. Kati Booth	Lohra Miller
xPeter Stevens	xBrett Barratt (Non-voting Member)

Staff

xPerri Babalis	xCathy Burton	xSuzette Green-Wright
xJilene Whitby		

Public

Brian Cogburn	Dave Pierson	Glen Minson
Mike Pallumeo	Gary Walton	Clay Carlos
Annette Jones	Dustin Norman	Joshua Massey

MINUTES

- **General Session (Open to the Public)**
 - **Welcome 12:05am**
Brad welcomed attendees and Commissioner Kiser.
 - **Adoption of Previous Meeting Minutes / Chair**
Motion by Pete to accept the minutes, seconded by Ryan, the vote was unanimous.
Wayne noted that Bear LLC was licensed but is no longer in the state.
 - **Kati signed the Confidentiality Form** and gave to Jilene.
- **Executive Session - If Needed (Closed to the Public)**
- **General Session (Open to the Public)**
 - **Approve Recommended Actions from Executive Session – if needed.**
 - **Licensing Report for October through December / Cathy**
No agencies have lapsed or gone out of business.
 - **Summary of Enforcement Reports / Cathy**
Cathy received a complaint yesterday and is gathering information now. Complaint deals with sexual favors and retaining possession of a car. Once she has gathered the information she will notify the agency and then report to the Board. The two e-cases are moving slowly. One of the agencies has gone out of business.
 - **Proposed Penalties for Boards Concurrence:** None
 - **Application:** None
 - **Report on Visits to Jails and Courts / Cathy**
Cathy reviewed the jails she still needs to visit. She has received positive comments about the lists sent to the jails by the Association. She will be attending a meeting of jailors January 24 to report on what she is doing. Cathy said the Department will be changing Bulletin 2011-5 to make reader boards, lists by the association and lists by the

Department an exemption to the Bulletin. Kati suggested Cathy give Wayne's contact information to jail people to help them keep information current on the reader board.

- **New Business**

- **PSMTIA (pawn shop registry) and Application to Bail** / Div. of Consumer Protection
 - Brad the collateral discussed here deals with property taken in place of a fee.
 - Brett introduced representatives from the Department of Commerce, Glen Minson and Michael Palumbo.
 - Glen spoke. He oversees pawn shops and second hand merchants. These businesses must register with the Department of Commerce. Information regarding the property they collect goes to a statewide database law enforcement agencies can access. The database is used to find stolen goods. Glen became aware that bail bondsmen may also come under this law when a bail bondsman called the Pawnshop and Second Hand Merchant Advisory Board about selling bikes given to him as collateral. They discovered that a few of the bikes had been stolen, initiating a criminal case.
 - Using property as collateral for a fee fits under the purview of this law. A business that takes used goods from the public is filling the role of a fencing operation.
 - What can business do to be above board and obey the law? If you are providing a benefit to a person that gives you property, you are a second-hand dealer and need to be licensed as such.
 - Is there anything that would exempt a bail bond person from this law if they are taking property for a fee? No. If you can keep the property then the law applies.
 - Gordon was against more government control, especially when this was such a minor part of their business.
 - The annual licensing fee is \$300.
 - This law is set up to protect the victims.
 - Gary suggested that to avoid regulation under this law producers should ask clients to take their property to a pawn shop to get the money for the bail fee. Person – asked what happens if he gets money from stolen property? Section 76-6-408 talks to the issue of taking stolen property. You are required to get information required by law to show due diligence.
 - Glen said that those businesses taking second-hand property without a license will be used by thieves to fence their property. We are here to educate and let you know we will be enforcing it. Business owners are not given access to the data base because we want to keep them from becoming detectives and possibly getting hurt. It is more important to provide information that will help the authorities catch thieves.
 - The recession has increased the number of businesses buying used property.
 - Glen thought it would be simple for bail agents who take property to make the leap from what they are doing now to what the law requires. No special equipment is needed. Just upload a program. Ryan said the biggest issue is the \$300 license fee.
 - The steps to obtain a license are to complete the registration form on-line, which takes about 5 minutes, pay the \$300 fee, and then report on-line the property you take for a fee. Their business packet has contact information and step-by-step instructions.
 - The law's aim is to make the victim whole through the prosecution of the thief and restitution.
 - Wayne suggested reducing the licensing fee amount to \$50 since they do so little with property. Glen noted that at one time the law based the registration requirements on the number of property transactions done by a business but found it common for businesses to lie on the number of transactions they did. Glen will see if there some other way to reduce the fee amount. He will look at the possibility of a license for the Association to cover their members.

- Commissioner Kiser said there were two solutions: get a representative to sponsor a bill possibly excluding them from the law, or see if they can work something out through the Association. He would be glad to help if they go through the Association.
 - The penalty for violating this law is \$500 per violation plus a class B misdemeanor.
 - Brad suggested the department, Association and anyone that want to participate, get together to discuss the issue and possible solutions.
 - **Discuss status of Board Member Lohra Miller / Brett**
Brett reported that Jilene had talked with Lohra Miller. Lohra needs to resign due to a new business she is heavily involved in. She promised to provide a letter of resignation. This will create an opening for the attorney position on the Board. Pete offered to switch to be the “attorney member,” opening up the position for “public member,” which might be easier to fill. Brad suggested putting a notice on the site. Brett said they would try to fill the position by the next meeting in April.
 - **Wayne Carlos Appeal on Workforce Services Ruling / Brad**
 - Wayne had an employee that went to Workforce Services for benefits. They denied him. The employee appealed and won. Wayne took the decision to the appellate court that deemed Wayne was an insurance company paying commissions and so he was exempt from providing benefits for contracted employees.
 - Commissioner said IRS has standard to determine if person is employee or not. Wayne said courts have judged bail bond agents as independent agents as long as meet the 20 point standard. Wayne said that if the Insurance Department had communicated with Workforce Services this would not have happened. They did not consider us an insurance agent.
 - **Bail Bond Attorney Relationships / Brad**
Perri referred to 31A-35-701(1)(b), which states that a bail bond producer may not: *“pay a fee or rebate or give or promise anything of value to any person in order to secure a settlement, compromise, remission, or reduction of the amount of any undertaking or bail bond;”*
Gordon noted that Subsection (1)(c) states that a producer can only pay an attorney for legal services actually rendered.
- **Old Business**
 - **Amendments to R590-186-8, Investigating Unprofessional Conduct / Brett**
Group discussed wording in (1)(b). How can you prove when a letter is mailed or received? It was determined that the Department would continue to send emails as well as mail. It was suggested that certified letters be sent but Suzette said that they were not used for any other line of insurance. Wording needs to be added to the rule that emails will be sent. Brett said that once these changes were made the rule would be filed to begin the formal rulemaking process.
 - **Signs & Cards in Jails / Brad**
This subject was deferred to next meeting.
- **Other Business**
- **Adjourn: Ryan made a *motion* to adjourn at 2:10pm and Kati seconded it.**
- **Next Meeting:** April 9, 2014, Spruce Room, East Building

2014 Meetings (Noon to 1:30pm)

Jan 8, 2014

Apr 9, 2014

Jul 9, 2014

Oct 8, 2014