



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

**Date:** October 12, 2011    **Time:** Noon    **Place:** Spruce Room  
East Building behind Capitol

(Attendees=*x*)

### **Board Members**

<i>x</i> Brad Jenkins (Chair)	<i>x</i> Ryan Cooper
<i>x</i> Gordon Wright (Co-Chair)	<i>x</i> Craig Crawford
Megan I. Corrent	<i>x</i> Lohra Miller
Peter Stevens	<i>x</i> Brad Tibbitts (Non-voting)

### **Staff**

<i>x</i> Suzette Green-Wright	<i>x</i> Perri Babalis	<i>x</i> Brett Barratt
<i>x</i> Jaimee George	<i>x</i> Jilene Whitby	

### **Public**

Thomas Pappas	Clay Carlos	Todd Harris
Garry Walton	Dominic Sanone	

## **MINUTES**

### **General Session (Open to the Public)**

- **Welcome:** At 12:10 pm Brad began the meeting and welcomed everyone.
- **Introduce New Non-Voting Board Member** – Brad Tibbitts
- **Adoption of Previous Meeting Minutes / Chair**  
Lohra made a **motion** to approve the minutes, Ryan seconded it and the vote was unanimous.
- **Roberts Rules & Open Meetings Act / Perri**
  - Parliamentary procedure:
    - All communication is through the chair.
    - Adjourn with a motion that is seconded and voted on.
    - A motion is debatable only after it is seconded.
    - Questions and comment should be directed to the chair.
  - Open Meetings Act
    - Required to review Act on an annual basis.
    - Business and discussions are to be done openly.
    - Since the Board is a part of the Executive Branch they are required to follow the Act.
    - Agenda is to be posted 24 hours in advance of the meeting with as much information as possible.
    - Agenda is to be posted on Public Meetings Website, on door of Department and send to a paper.
    - Meeting may be closed in order to discuss:
      - A person's character, professional competence or physical or mental ability;
      - Collective bargaining;
      - Imminent litigation;
      - Security devices;

- Criminal misconduct
- Strategy session regarding water rights;
- Strategy session regarding sale and lease of real property.
- The Act does not require that any meeting be closed.
- Only close a meeting if all members are present and state why it is being closed.
- Rarely do individual names need to be used in a discussion. Just discuss actions. It takes a two thirds vote to move to Executive Session.
- No action can be taken in a closed session.
- Minutes must be written and recorded. Written minutes are official and must be kept indefinitely. A recording is to be kept two years. Must include date, time, those present and absent and all matters voted on. Minutes of closed meetings are not public.
- Perri will send Board members an electronic copy of the Governor's boards and commissions book. It includes Roberts Rules and Open Meetings Act.
- Violation of this act is a Class B Misdemeanor.
- Brad asked if Megan Current was still a member of the Board. She is. Perri reviewed attendance requirements of Board members.
- *Executive Session - Not Needed (Closed to the Public)*
- **Summary of Enforcement Reports / Jaimee**  
Jaimee reviewed report. Complaints must be put in writing. Audits winding down. There are seven more to do. Eleven investigations have been opened since the last meeting. No e-cases were opened. Referrals are still taking place in jails.
- **Applications - None**

## Old Business

- **R590-196(3) Changes Re: Agents Depositing Premium in Agency Account / Perri**
  - The Department and Perri felt this change should be made to R590-196.
  - (g) should be (3).
  - Seven days should be specified as calendar days.
  - Jaimee stated that penalties will be determined on a case by case basis. There have been no forfeitures as a result of this issue so far. Brett said the Department's focus will be to get everyone into compliance. Blatant violations or a pattern of violations will be subject to penalties.
  - Gary said laws were already in place to make sure financial records are maintained. He did not think an agency should be penalized when an agent can't deposit premiums within seven days.
  - Perri noted that the reason for the change is to make it possible for Jaimee to enforce the 10% rule. Gary did not think Jaimee could tell by looking at deposits if an agency was compliant with the 10% rule. Brad said it worked for him. Jaimee said she knew of three agencies that were already following this procedure.
  - Brad gave the board and industry one month to come up with suggested changes that would help Jaimee check agencies for compliance of the 10% rule. Lohra was concerned that once rules were put into effect regulating accounting procedures it would create a slippery slope, resulting in stricter regulations. Bonding companies should be held accountable for the way their agencies handle their money. Jaimee said she needs a paper trail to really know what premiums agents are charging.
  - Ryan made a **motion** to table the rule, Craig seconded it. Lohra asked if the move was to send the rule back to staff to address the issue of auditing through less restrictive means? Perri said the department had given it their best shot. Input needs to come from the industry now.

- Lohra made a **substitute motion** to not support the rule as written. It is a violation of free trade. It is not a complete solution to the audit problem. She moved to not support the rule amendment, Brad seconded the motion. Todd felt there was enough self regulation inside the industry. Brad said violations were going on regularly. Clay asked if the department talked to a those accused of violating the law? He said that a new wheel would have to be invented in order to comply with the proposed change. All but Gordon voted in favor of the motion. Gordon voted against it.
- **Motion** by Craig to go back to New Business, seconded by Gordon.
- **Pre-licensing & CE**
  - Todd gave Suzette a flash drive of CE classes he wanted to provide.
  - Clay thought agencies should be required to train their employees. Statute should be repealed. Brad thought agency head should go to class and then be responsible to train their agents. The code would need to be changed to require this. Gordon agreed it should be changed. Suzette said the bail bond association could be responsible to teach the classes. Jaimee felt this law was needed. It should not be repealed. Many agencies are not being run properly and so should not be allowed to train their agents.
  - Gordon asked if board meetings could count for CE? Jaimee said the board could apply as a non-profit CE provider. The question comes to does the board meetings have enough content to justify an hour of CE? Maybe half an hour. According to the CE specialist a minimum of 50 minutes equals 1 hour of CE.
  - Brad asked Todd to send the Board an e-copy of his classes so they could review them.
  - CE law goes into effect January 1, 2012. No changes to the code will change this.
- **Amended Prohibited Bail Bond Advertisement Bulletin** / Perri
 

Todd asked if it was a violation to take a gratuity into the jail. Gary wanted to know the interpretation of “soliciting.” Perri said violations would be determined on a case by case basis. Jaimee explained that the Bulletin was to explain our law to the jails. The law is already in effect. Brett referred to the last paragraph of the Bulletin. Soliciting would be placing a box of pens or business cards on the counter and putting a poster up in the jail. It is not leaving a pen with a client accidentally. Gordon made a **motion** to send the Bulletin out to the jails, Craig seconded it and the vote was unanimous.
- **Cash Bail Machine**
  - **Bail Machine Update** / Jaimee
 

Jaimee went to the jail at Purgatory, talked with the sergeant and called the company that administers the machine. The machines are intended to take care of cash bail, especially in the evenings. They do not provide bail bonds. The company is the administrator. The jail takes care of the paperwork for cash bonds.
  - **Legality** / Perri
 

Department does not have regulatory authority over cash bonds.

## **New Business**

- **Early Case Resolution (ECR)** / Lohra
  - Lohra provided background on early case resolution. In 2002 thousands were released from jails due to overbooking. From date of arrest to conviction we had some of the longest times in the U.S. Salt Lake County did a study on the failure to appear rate, and found that they were at 42% with the national average at 20%. ECR was created to relieve this backlog. ECR requires that those released have their charges addressed and be given a date certain to appear. A problem they did not foresee was that the number of warrants was reduced, thus reducing bail bond business. The number of those failing to appear has been reduced and cases are being processed more quickly.

- Brad J said it had not decreased OCRs. Lohra said that was not the goal. Gary said ECR has nothing to do with bonding. He has writing more business since it went into effect. Brad said there has been a reduction in bonding.
- Lohra welcomed anyone who wanted to discuss this matter with her to give her a call at 801-671-3681.

**Other Business**

*Adjourned* 2:04pm

**Next Meeting:** November 9, 2011, Spruce Room, East Building

**2011 Meetings**

Nov 9 Dec 14