



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: September 12, 2012 **Time:** Noon **Place:** Spruce Room, East Bldg.

Board Members

(Attendees=x)

xBrad Jenkins (Chair)

xGordon Wright (Co-Chair)

xMegan I. Corrent

xRyan Cooper

xCraig Crawford

Lohra MilleXPETER STEVENS

xBRETT BARRATT (NON-VOTING

MEMBER)

Staff

xPerri Babalis

xPaul Throckmorton

xBrett Barratt

xJilene Whitby

xPatrick Lee

Tracy Klausmeier

Public

Gary Walton

Dustin Newman

Wayne Carlos

Annette Jones

Thomas Pappas

Todd Harris

MINUTES

- **General Session (Open to the Public)**
 - **Welcome & Introduce New Commission Member**
Brad started the meeting at 12:05 PM.
 - **Adoption of Previous Meeting Minutes / Chair**
Gordon made a motion to adopt the minutes, Ryan seconded it, and the vote was unanimous.
 - **Executive Session - Not Needed**
 - **Summary of Enforcement Reports / Paul**
 - **Application** – None
 - **Complaints & Enforcement Actions**
 - Paul reviewed the complaints received and enforcement action actions April to August. He made a correction to Ecase 2808 stating that the license had been revoked and was now on appeal. He noted that licensees cannot write bail during the appeal process. The types of violations in his report included:
 - Unlicensed activity;
 - Using unapproved forms;
 - Fiduciary violations;
 - Form violations;
 - Failure to report administrative action;
 - Failure to pay outstanding judgment.
 - Provided was a list of Open Investigation and Enforcement Cases for April to August with the number of days each case had been opened. Enforcement cases were open 88 to 546 days with three cases still open. Investigations were open

from 1 to 74 days with one case still open. Report included the following statistics:

- 4 complaints were opened and 4 closed.
- 2 audits were conducted
- 19 investigations opened and 16 closed.
- 5 enforcement cases opened and 12 closed.

○ **Old Business**

○ **New Business**

▪ **Duties of the Board of Directors per [31A-35-202\(1\)\(d\)](#) / Perri**

During the April meeting the question was asked, “Why are there no names on the administration action report?” Perri said Section 31A35-202(1) lists the responsibilities of the Board. There is no reference to reviewing forfeitures and fines. Essentially the board gives suggestions on licensure but not fines. In 2011 legislation changed “shall” to “may” regarding their authority to conduct investigations. Unless they conduct investigation they cannot have access to the department’s database. If the Board chose to investigate the Department would have to bring complaints to the board.

- ✓ Brad thought the Board should be able to investigate serious issues. Megan didn’t know how they could investigate. Pete said the Board should give information about violations to the department in the form of a complaint rather than investigating. Craig asked for the average number of complaints. Paul said four since April. Paul said if Board did investigations he could not act on a complaint until he brought it to the Board. He emphasized that he watches for patterns and trends. Paul said cases that go to civil action take longer. The Department’s case is put on hold until the civil case is concluded. At that point we are notified.
- ✓ Perri said Rule R590-186-8 deals with investigations. It conflicts with the 31A-35-202. The rule says the board “shall” investigate and the code says it “may” investigate.
- ✓ Pete said the Board could not be impartial investigating their competitors. They would not have governmental immunity if they investigated. Perri said they needed a process to investigate first. The rule needs to be changed. The Board can suggest language for a rule and give to the Commissioner.

▪ **Discuss Proposed Bulletin Re: Immigration Bonds and Licensure Required / Brett**

This draft bulletin is an effort to get feedback. Department’s interpretation of the law is that a licensed P & C producer is the only one that can issue an immigration bond.

- ✓ Gary said no one in Utah currently writes corporate surety bail. Most is done by cash-only bail. Bulletin should exclude cash-only bonds. Some people in the state get a referral commission that refer things to an out-of-state insurance company and the immigration bonds are posted out of Los Angeles or Fort Lauderdale, FL. The two are primary producers of immigration bonds and both pay referral fees. He did not know what the department’s stance was on such fees? He thought referral fees should be addressed in the bulletin. None of the immigration bond process originates in Utah.
- ✓ Brett will review draft bulletin and applicable law and present revised proposed bulletin at next meeting.
- ✓ Pete asked what Gary charged to do an immigration bond and he said 15% fee on a \$10,000 bond.

▪ **Explanation of Expenditures, Uses & Current Balance of Dedicated BB Fund / Patrick Lee**

The Bail Bond restricted account lapses into itself and not the general fund. Section

31A-35-407 describes the restricted account. Each year agencies pay into the restricted account \$250 if they have an active license, or if it has lapsed and they have to reinstate it they pay \$300. The legislature has appropriated \$23,500 the past few years. The Board can spend up to this amount. Expenses are within the appropriated amount. The fund balance as of September 8, 2012 was \$47,597. The fund pays for lunch when the Board meets and time Paul or Jaimee work on bail bond issues. Gordon asked for a break-down and balances for each year. Patrick agreed.

- **2013 Legislation** / Brett Barratt
Brett reported that the department’s bill contained nothing dealing with bail bonds.
- **Elect a New Chair and Co-Chair for the Commission**
 - ✓ Gordon made a **motion** to retain Brad Jenkins as Chair, Ryan seconded it and the vote was unanimous.
 - ✓ Gordon made a motion that Ryan Cooper be Co-Chair, Pete seconded it and the vote was unanimous.
- **Other Business**
- *Adjourned* – Motion to adjourn by Megan at 1:03 PM, approved.
- **Next Meeting:** October 10, 2012, Spruce Room, East Building

2012 Meetings

Jan 11	Feb 8	Mar 14	Apr 11	May 9	June 13
July 11	Aug 8	Sept 12	Oct 10	Nov 14	Dec 12