

R590. Insurance, Administration.

R590-186. Bail Bond Business.

R590-186-1. Purpose.

This rule establishes criteria and procedures for licensing a bail bond agency and sets standards of conduct.

R590-186-2. Authority.

This rule is promulgated pursuant to:

(1) Section 31A-35-104 which requires the commissioner to adopt by rule specific licensure and certification guidelines and standards of conduct for the bail bond business;

(2) Subsection 31A-35-301(1) which authorizes the commissioner to adopt rules necessary to administer Title 31A, Chapter 35;

(3) Subsection 31A-35-401(2) which allows the commissioner to require by rule additional information from bail bond agency license applicants; and

(4) Subsection 31A-35-406(1)(b) which allows the commissioner to establish by rule the annual renewal date for the renewal of a license as a bail bond agency.

R590-186-3. Scope and Applicability.

This rule applies to any person engaged in the bail bond business.

R590-186-4. Initial and Renewal Agency License.

(1) Applications for an initial and a renewal bail bond agency license shall be filed with the commissioner.

(2) The applicant shall provide the following with the application:

(a) the initial or renewal license fee in R590-102-16;

(b) proof that the applicant satisfies the minimum financial requirements for a bail bond agency license set forth in Section 31A-35-404.

R590-186-5. Bail Bond Producer License and Renewal.

(1) Bail bond agencies and surety insurers must issue bail bonds through licensed bail bond producers who have been designated by the bail bond agency or have been contracted with and appointed by the surety insurer.

(2) All persons doing business as bail bond producers must be licensed in accordance with Title 31A, Chapter 23a, 31A-35-406, and applicable rules regarding individual producer licensing. Bail bond producer licenses are individual limited line licenses. These licenses are issued for a two-year period and require no licensing examination or continuing education. Individual bail bond producer licenses must be renewed at the end of the two-year

licensing period.

R590-186-6. Unprofessional Conduct.

Persons in the bail bond business may not engage in unprofessional conduct. Unprofessional conduct means the violation of any applicable insurance law, rule or valid order of the commissioner, or the commission of any of the following acts:

(1) having a professional or occupational license revoked in this or any other state;

(2) being involved in any transaction which shows unfitness to act in a fiduciary capacity;

(3) willfully misstating or negligently reporting any material fact in the initial or renewal application or procuring a misstatement in the documents supporting the initial or renewal application;

(4) being the subject of any outstanding civil judgment which would reduce the bail bond agency's net worth below the minimum required for licensure;

(5) being convicted of any felony or of any misdemeanor that involves the misappropriation of money or property, dishonesty or perjury;

(6) failing to report any collateral taken as security on any bond to the principal, indemnitor, or depositor of such collateral;

(7) failing to preserve, or to retain separately, or both, any collateral taken as security on any bond;

(8) failing to return collateral taken as security on any bond to the depositor of such collateral, or the depositor's designee, within ten business days of having been notified of the exoneration of the bond or upon payment of all fees owed to the bail bond agent, whichever is later;

(9) failing to advise the commissioner of any change that has reduced the bail bond agency's net worth below the minimum required for licensure;

(10) using a relationship with any person employed by a jail facility or incarcerated in a jail facility to obtain bonding referrals;

(11) offering consideration or gratuities to jail personnel or peace officers or inmates under any circumstances which would permit the inference that said consideration was offered to induce bonding referrals or recommendations;

(12) failing to deliver to the incarcerated person, or the person arranging bail on behalf of the incarcerated person, prior to the time the incarcerated person is released from jail, a one page disclosure form which at a minimum includes:

(a) the amount of the bail;

(b) the amount of the bail bond agency's fee, including bail

bond premium, preparation fees, and credit transaction fees;

(c) the additional collateral, if any, that will be held by the bail bond agency;

(d) the incarcerated person's obligations to the bail bond agency and the court;

(e) the conditions upon which the bond may be revoked;

(f) any additional charges or interest that may accrue;

(g) any co-signors or indemnitors that will be required; and

(h) the conditions under which the bond may be exonerated and the collateral returned.

(13) using an unlicensed bail bond agent or unlicensed bail bond enforcement agent;

(14) using a bail bond agent not contracted and appointed by a bail bond agency or surety insurer;

(15) charging excessive or unauthorized premiums, excessive fees or other unauthorized charges;

(16) requiring unreasonable collateral security;

(17) failing to provide an itemized statement of all expenses deducted from collateral, if any;

(18) requiring as a condition of executing a bail bond that the bond purchaser agree to engage the services of a specified attorney;

(19) preparing or issuing fraudulent or forged bonds or power of attorney;

(20) signing, executing, or issuing bonds by an unlicensed person;

(21) executing bonds without countersignature by a licensed bail bond producer at time of issue;

(22) failing to account for and to pay any premiums held by the licensee in a fiduciary capacity to the bail bond agency, surety insurer, or other person who is entitled to receive them;

(23) knowingly violating, advising, encouraging, or assisting the violation of any statute, court order, or injunction in the course of a business regulated under Title 31A, Chapter 35;

(24) conviction of felony involving illegally using, carrying, or possessing a dangerous weapon;

(25) conviction of any act of personal violence or force against any person or conviction of threatening to commit any act of personal violence or force against any person, including but not limited to violent felonies as defined under Section 76-3-203.5;

(26) soliciting sexual favors as a condition of obtaining, maintaining, or exonerating bail bond, regardless of the identity of the person who performs the favors;

(27) acting as an unlicensed bail bond enforcement agent;

(28) failing to comply with outstanding judgments; and

(29) using deceptive or intimidating practices.

R590-186-7. Investigating Unprofessional Conduct.

The commissioner shall investigate complaints of unprofessional conduct submitted in writing to the commissioner. Once the investigation is complete, the commissioner shall report findings and a recommended disposition to the board. That report shall be confidential and may not be disclosed beyond the Insurance Department and the board. After obtaining the board's comments and recommendations concerning the report, the commissioner will determine the appropriate disposition.

R590-186-8. Bonding Limits.

(1) A bail bond agency that maintains a qualified power of attorney from a surety insurer may not maintain outstanding bail bond obligations in excess of the amount allowed by the surety insurer.

(2) A bail bond agency that pledges assets of a letter of credit or pledges personal or real property may not maintain outstanding bail bond obligations in excess of the amounts provided in the table below:

TABLE

Financial Requirements	Ratio of Outstanding Bond Obligations to Letter of Credit or Net Worth and Liquidity Amounts
\$250,000 line of credit or net worth/\$50,000 liquidity)	licensed 0 to 36 months: 5 to 1 licensed over 36 months: 5 to 1
300,000 or more line of credit limit or net worth/ at least \$100,000 liquidity	licensed 0 to 36 months: 5 to 1 licensed over 36 months: 10 to 1

(3) The commissioner may reduce the bonding limit of a letter of credit or a property bail bond agency who has qualified for the 10 to 1 ratio if that bail bond agency's line of credit limit or net worth or liquidity limit falls below the limits stated in Subsection(2) above.

R590-186-9. Definition.

For the purpose of Subsection 31A-35-701(5), "members of their immediate families" means spouse, children, stepchildren, children-in-law, mother, father, brother, sister, mother-in-law, father-in-law, sister-in-law, brother-in-law, step-mother, step-father, step-brother, step-sister, half-brother, or half-sister.

R590-186-10. Penalties.

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

R590-186-11. Severability.

If any provision of this rule or its application to any person or situation is held to be invalid, that 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 end the provisions of this rule are declared to be severable.

KEY: insurance

Date of Enactment or Last Substantive Amendment: June 21, 2019

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Authorizing, and Implemented or Interpreted Law: 31A-35-104; 31A-35-301; 31A-35-401; 31A-35-406