

R590. Insurance, Administration.

R590-196. Bail Bond Surety Fee Standards, Collateral Standards, and Disclosure Form.

R590-196-1. Purpose.

This rule establishes uniform fee and collateral standards for bail bond surety business in the State of Utah.

R590-196-2. Authority.

This rule is promulgated pursuant to Section 31A-35-104 which requires the commissioner to adopt by rule standards of conduct for bail bond surety business.

R590-196-3. Scope and Applicability.

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

R590-196-4. Fee Standards.

- (1) Initial bail bond fees.
 - (a) Bail bond premium:
 - (i) minimum fee: not less than 10% of bond amount;
 - (ii) maximum fee: not to exceed 20% of bond amount.
 - (b) Document preparation fee may not exceed \$20 per set of forms pertaining to one bail bond.
 - (c) Credit card fee may not exceed 5% of the amount charged to the credit card.
- (2) Additional fees.
 - (a) These fees are limited to actual and reasonable expenses incurred by the bail bond surety because:
 - (i) the defendant fails to appear before the court at any designated dates and times;
 - (ii) the defendant fails to comply with the court order; or
 - (iii) the defendant or the co-signer fails to comply with the terms of the bail bond agreement and any promissory notes pertaining to that agreement.
 - (b) Reasonable expense fee for mileage is the Internal Revenue Service standard for business mileage.
 - (c) Apprehension expenses such as meals, lodging, commercial travel, communications, whether or not the defendant is apprehended, are limited to actual expenses incurred and must be reasonable, i.e., meals at mid-range restaurants, lodging at mid-range hotels, commercial travel in coach class, etc.
 - (d) Reasonable collateral expense fees:
 - (i) actual expenses to obtain collateral; and
 - (ii) storage expenses if in a secured storage area, limited to actual expenses.
 - (e) A late payment fee of \$20 or 5% of the delinquent periodic payment whichever is less.
 - (f) If a fee is charged by the court or the jail to process a bail bond, the actual fee charged may be passed through to the defendant or the co-signer.

R590-196-5. Collateral Standards.

- (1) Collateral may be provided to secure bail bond fees, the face amount of the bail bond issued, or both.
- (2) If the bail bond surety accepts the same collateral to secure the bail bond fees and the face amount of the bail bond issued, then, in the event of a failure to pay bail bond fees when due, the collateral may not be converted until the bail bond is exonerated or judgment entered against the surety and the depositor has been given no less than 15 days to pay any bond fees owing.
- (3) If the bail bond surety accepts different collateral to secure the bail bond fee and the face amount of the bail bond issued then:
 - (i) the collateral securing the bail bond fees may not be converted until payment has been defaulted under the terms of the promissory note for those fees, and the depositor of the collateral has been given no less than 15 days to make the required payment;
 - (ii) the collateral securing the face amount of the bail bond issued may not be converted until the bond is exonerated or judgment entered against the surety and the depositor of the collateral has been given no less than 15 days to reimburse the bail bond surety for any amounts owed to the bail bond surety.
- (4) The bail bond surety, its agents taking possession of collateral, or both, will hold said collateral as a fiduciary until such time as ownership of the collateral passes to the bail bond surety.
- (5) Collateral held as a fiduciary may not be used by the bail bond surety or its agents without the specific written permission of the depositor of the collateral.
- (6) Should proceeds from converted collateral exceed the outstanding balance due, the bail bond surety will return the excess to the depositor of the collateral.
- (7) Notice under the rule shall be deemed proper if it is sent via first class mail to the address provided by the depositor of the collateral.

R590-196-6. Disclosure Form.

The bail bond surety and its agents will use the following disclosure form or a form that contains similar language.

TABLE

1234 South 1234 East, Salt Lake City, UT 84444:

801-123-4567 fax: 801-098-7654

Defendant.....Co-Signer.....

Court.....Charge.....

Bond amount \$.....Bond number.....

Initial Fees, non-refundable.

....bond premium, maximum: no more than 20%; minimum: not less than 10%;	\$.....
....document preparation, not to exceed \$20 per set of bond forms	\$.....
....credit card fee, not to exceed 5% of amount charged to credit card	\$.....
total initial fees	\$.....

Additional Fees.

(1) Limited to actual and reasonable expenses required because the defendant fails to appear before the court at any designated times, or fails to comply with the court order, or fails to comply with the terms of the bail bond agreement or any promissory notes pertaining to that agreement. The following are some reasonable expense fees:

(i) reasonable expense fee for mileage is IRS mileage reimbursement standard for business miles;

(ii) reasonable apprehension expense fees include meals at mid-range restaurants, lodging at mid-range hotels, transportation at no more than coach fares; and

(iii) reasonable collateral expense fees: actual expenses to obtain collateral and, actual storage expenses, if collateral is in a secured storage area.

(2) A late payment fee of \$20 or 5% of the delinquent periodic payment whichever is less.

(3) If a fee is charged by the court or the jail to process a bail bond, the actual fee charged may be passed through to the defendant or the co-signer.

Grounds for revocation of bond.

Should the defendant violate any of the following, the defendant shall be subject to immediate bond revocation and the defendant, or the co-signer, or both, shall be subject to all the costs incurred to return the defendant to the court.

Grounds for revocation include the following:

(a) the defendant or co-signer providing materially false information on bail bond application;

(b) the court's increasing the amount of bail beyond sound underwriting criteria employed by the bail bond agent or bail bond surety;

(c) a material and detrimental change in the collateral posted by the defendant or one acting on defendant's behalf;

(d) the defendant changes their address or telephone number or employer without giving reasonable notice to the bail bond agent or bail bond surety;

(e) the defendant is arrested for another crime, other than a minor traffic violation, while on bail;

(f) the defendant is back in jail in any jurisdiction and revocations can be served prior to the defendant being released;

(g) failure by the defendant to appear in court at any appointed times;

(h) finding of guilt against the defendant by a court of competent jurisdiction;

(i) a request by the co-signer based on reasons (a) through (h) above. Items (a) through (h) pertain to the defendant; items (a), (c), (e) (g) and (i) pertain to co-signers, if any.

Collateral.

The following has been given as collateral to guarantee all court appearances of the defendant until the bond is exonerated:

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.....

The following has been given as collateral to guarantee payment of bond fees:

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.....

In the event judgment is entered against the surety or the bonding fee is not paid according to the terms of the bail bond agreement and its promissory note, if any, following written notice to the undersigned of such judgment or non-payment, the undersigned authorize XYZ Bail Bonds to convert the appropriate

collateral to collect the judgment or the unpaid bond fees. Should proceeds from the sale of the appropriate collateral be insufficient to cover the outstanding balance due, the defendant, the co-signer, or both, agree to be personally liable for the difference. Should proceeds from the sale exceed the outstanding balance, the difference will be returned to the depositor of the collateral. The depositor's signature below constitutes acknowledgment of a Bill of Sale for the collateral. The depositor accepts this agreement as a bill of sale for the collateral.

By signing below I certify that I have read and understand this disclosure form, the bail bond agreement and its attached promissory note, if any. I certify under penalty of perjury that all information given to XYZ Bail Bonds verbally and in writing on all documents relevant to this bond are true and accurate. The co-signer agrees that should the co-signer request XYZ Bail Bonds to revoke the defendant's bond, with or without probable cause, the co-signer will be responsible to pay XYZ Bail Bonds and their agents for the time returning the defendant to jail at the rates stated above in additional fees. If requested by the co-signer to revoke the bond without probable cause, the co-signer will be responsible to reimburse the defendant his bond fees.

Date.....Defendant.....
Date.....Co-signer.....
Date.....Depositor.....
I,....., agent of XYZ Bail Bonds, certify that I have given a copy of all documents pertaining to this bail bond agreement to the defendant, the co-signer, the depositor, or any of the above, at the time and date said bail bond agreement was executed.
Date.....Bail Bond Agent.....

R590-196-7. Penalties.

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

R590-196-8. Severability.

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

R590-196-9. Enforcement Date.

The commissioner will begin enforcing the revised provision of this rule 45 days from the rule's effective date.

KEY: insurance, bail bonds

Date of Enactment or Last Substantive Amendment: April 14, 2010

Notice of Continuation: November 15, 2019

Authorizing, and Implemented or Interpreted Law: 31A-35-104