

WALLER COUNTY



BAIL BOND BOARD

LOCAL RULES

Adopted 10/7/2020

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SECTION 1 – GENERAL PROVISIONS

1.01 AUTHORITY AND SCOPE OF RULES

These Rules are adopted by the Waller County Bail Bond Board as authorized by Texas Occupations Code, Section 1704.101.

1.02 PURPOSE

The purpose of these Rules is to supervise and regulate each phase of the bonding business within the geographic boundaries of Waller County and to adopt and post rules necessary to implement the Texas Occupations Code, Section 1704.101.

1.03 COMPUTATION OF TIME

- A. The computation of time shall be calendar days rather than business days, unless otherwise required by statute.
- B. Unless otherwise required by statute, in computing time periods prescribed by these Rules, the period shall begin to run on the day after the act, event, or default in question. The day of the act, event, or default on which the designated period of time begins to run is not included in the computation. The period shall conclude on the last day of the designated period.
- C. Any deadline imposed pursuant to these Rules shall extend to the next business day thereafter in the event that the stated date falls on a day that Waller County or the United States Postal Service is not open for business.

1.04 DEFINITIONS

The following words, when used in these Rules, shall have the following meanings, unless the context clearly indicates otherwise.

- A. Agent: an independent contractor licensed in Waller County as a bail bondsman and contracted by a Corporate Surety to issue bail bonds on behalf of the Corporate Surety.
- B. Applicant: a person seeking to obtain or renew a License for a Corporate Surety, Corporate Surety Agent or Individual in Waller County.
- C. Board: means the Waller County Bail Bond Board.

- D. Bond: cash deposit and/or any other similar deposit or written agreement to assure appearance.
- E. Company: an entity engaged in the bail bond business.
- F. County: Waller County.
- G. Employee: any person who, for hire or for any compensation, performs work with or on behalf of a Licensee including but not limited to: meets and negotiates with members of the public for the purpose of selling bail bonds; receives money as a fee or money or property as collateral for bail bonds; presents bonds to the Sheriff's Office for approval; and/or interviews or takes information from persons who have been released from jail pursuant to a bond provided by the Licensee.
- H. Licensee: a person licensed hereunder either as an Individual Surety or as Corporate Surety's Agent.
- I. Person: an individual or corporation.
- J. Office: an office location in Waller County as required by the Occupations Code is defined as a store front, separate from a residence.
- K. Rules: the Waller County Local Bail Bond Board Rules.
- L. Presiding Officer: the elected chair of the Waller Bail Bond Board.

SECTION 2 – BAIL BOND BOARD

2.01 MEMBERS

- A. Board Members shall serve from January 1st to December 31st of each year.
- B. The Board shall elect a chair and vice chair at each January meeting or at the next called meeting upon resignation of the chair or vice chair.

2.02 ELECTED BOARD MEMBERS

- A. The following positions on the Bail Bond Board shall be decided by secret ballot:
- (1) Licensed Bail Bond Surety representative
 - (2) Criminal Defense Attorney representative
 - (3) Justice of the Peace representative
- B. Each elected position has a limited set of eligible voters, per Section 1704.0535 of the Texas Occupations Code. Elected positions may resign at any time.
- (1) Each individual licensed in the county as a bail bond surety or as an agent for a corporate surety is entitled to cast one vote (for each license held) to elect the Licensed Bail Bond Surety representative to serve on the Board. This position is to be elected annually, per 1704.0535(1) Tex. Occ. Code.
 - (2) Each attorney who has a principal place of business located in the county (and who is not legally prohibited from representing criminal defendants in the county) is entitled to cast one vote to elect the Criminal Defense Attorney representative to serve on the Board. This position is to be elected annually, per 1704.0535(2) Tex. Occ. Code.
 - (3) Each elected Justice of the Peace in the county (who is not legally prohibited from voting in an election) is entitled to cast one vote to elect the Justice of the Peace representative to serve on the Board. This position **will not** be elected annually, but instead be filled upon vacancy, *see* 202(D) of these Rules.
- C. The Bail Bond Administrator shall run the secret ballot election of above listed position following these guidelines:
- (1) The Bail Bond Administrator shall make all ballots available online and for in-person pick up beginning November 1st of each year until November 30th.
 - (2) Ballots are to be submitted to the Bail Bond Administrator by November 30th and will not be counted if received after this date.
 - (3) The Bail Bond Administrator shall tally the votes and come to a final count to be presented and approved at the following January meeting of the Board.
 - (4) The Nominee with largest number of votes for each Elected Board Member Position will be selected as the representative to serve beginning at the following January meeting.
 - (5) The Board shall use a random selection method to resolve any ties for an Elected Board Member Position.

- D. In the event an Elected Board member position is not filled by name on December 31st, the current representative may elect to serve for the next term or vacate the position. If vacated, the position will remain unfilled until such time that the Bail Bond Administrator receives a nomination for the position and runs an election in line with the above stated guidelines.
- E. The Board shall approve the election results.

2.03 MEETINGS

- A. Per Section 1704.055(c) of the Texas Occupations Code, meetings of the board will be held four times each year in the months of January, April, July, and October; AND at other times at the call of the presiding officer.
 - (1) Meetings will be held on the last Wednesday of each of the above stated months; OR at another practicable time to be determined by the presiding officer or by statute.
- B. At the Board's quarterly October meeting, a schedule shall be adopted specifying the date, time and place of its regular meetings for the following year.
- C. The Bail Bond Administrator shall post all meeting agendas in compliance with the Texas Open Meetings Act.
- D. All proceedings not governed by specific statutory provision or Rules of this Board shall be conducted in accordance with Robert's Rules of Order.
- E. Any interested person may request an item to be placed on the Agenda by presenting the request in writing to the Bail Bond Administrator no later than 5:00 p.m. the Friday before the Board Meeting at which it's desired to be discussed and acted upon.
- F. Any requests for special or emergency meetings shall be by written request to the chair or vice chair of the Board and shall be accompanied by all pertinent data including a written statement of why a special or emergency meeting should be called. Notice for a special or emergency meeting shall comply with the Texas Open Meetings Act. The determination of the need for a special or emergency meeting shall be made at the sole discretion of the chair or vice chair.

- G. Failure to submit all necessary documents by 5:00 p.m. the Friday before the meeting shall result in the matter not being placed on the agenda until such time as the item has been submitted timely and in complete form.

2.04 COMMITTEES

- A. The Board shall approve the creation of any committees and shall select the members to be appointed in accordance with requirements of the Open Meetings Act.

- (1) The Board shall establish a complaint committee to hear grievances and this committee will be comprised of a designated Assistant District Attorney, a designated municipal judge, and a designated local defense attorney. Designations will be made by the presiding officer.

2.05 CHANGES TO RULES

These Rules may be adopted, altered, amended or repealed by majority vote of all the members present at a regularly scheduled meeting of the Board, provided that at least 10 days' written notice is given of the proposed adoption, amendment or repeal by posting the proposed rules in the same manner as posting notice of meetings of the Board.

2.06 LICENSED BAIL BOND SURETY LIST

- A. The Bail Bond Administrator shall maintain and distribute a Licensed Bail Bond Surety List every six months, or upon Board action on a suspension or revocation.
- B. The order of the Licensed Bail Bond Board Sureties shall rotate on the date of the April and October meetings. The order of the list shall be determined by lottery drawing.
- C. Per Section 1704.105 of the Texas Occupations Code this list shall be posted to:
 - (1) Each court with criminal jurisdiction in the county; AND
 - (2) Each local official responsible for the detention of prisoners in the county; AND
 - (3) This list must be posted and displayed at each location where prisoners are examined, processed, or confined in the county.

SECTION 3 – APPLICATION

3.01 INDIVIDUAL LICENSE

- A. All sureties and co-sureties who execute security bonds in Waller County shall ensure that a properly completed application for a bail bond license is received by the Bail Bond Administrator no later than thirty (30) days before the application will be considered by the Board.
- B. Applications shall be submitted to the Bail Bond Administrator in the following manner:
 - (1) A true & correct copy of the completed application shall be emailed or hand delivered to the Bail Bond Administrator.
 - (2) The physical, mailing, and email address for the Bail Bond Administrator shall be listed on the Waller County Bail Bond Board website.
- C. Required attachments not submitted with the application must be received by the Bail Bond Administrator by 5:00 p.m. on the Friday prior to posting the Board Agenda for the monthly meeting at which the application will be considered.
- D. It is required that a criminal history from DPS be obtained by the applicant and provided with each application to ensure compliance with the Tex. Occ. Code 1704.153.
- E. All letters of recommendation required by the Texas Occupation Code shall include the author's printed name, address, phone number, title, and relationship to the applicant. A Board approved recommendation form is included in the application.
- F. Applicant shall submit a passport qualifying photograph with their submitted application to be used for the identification card.
- G. The Bail Bond Administrator shall issue an identification card to all Licensees approved by the Board.

3.02 AGENT LICENSE

- A. An agent authorized to issue bail bonds on behalf of the Corporate Surety shall ensure that a properly completed application for a bail bond license, along with all required attachments, is received by the Bail Bond Administrator no later than thirty (30) days before the application will be considered by the Board.

- B. Applications shall be submitted to the Bail Bond Administrator in the following manner:
 - (1) A true & correct copy of the completed application shall be emailed or hand delivered to the Bail Bond Administrator.
 - (2) The physical, mailing and email address for the Bail Bond Administrator shall be listed on the Waller County Bail Bond Board website.
- C. Required attachments not submitted with the application must be received by the Bail Bond Administrator by 5:00 p.m. the Friday prior to posting the Board Agenda for the monthly meeting at which the application will be considered.
- D. It is required the applicant submit a criminal history obtained from DPS with each application to ensure compliance with Tex. Occ. Code 1704.153.
- E. All letters of recommendation required by the Texas Occupations Code shall include the author's printed name, address, phone number, title and relationship to the applicant. A Board approved recommendation form is included in the application materials.
- F. When submitting an application for a Corporate License, an authorized corporate representative shall sign the application and include his/her title. Additionally, a letter of authorization from the corporate officer shall be included with the application, designating the individual who will answer and act on behalf of the corporation.
- G. Applicant shall submit a passport qualifying photograph with their submitted application to be used for the identification card.
- H. The Bail Bond Administrator shall issue an identification card to all Agents approved by the Board.
- I. No Agent shall execute bonds for any Corporate Surety unless such Agent is individually licensed pursuant to the Regulation of Bail Bond Sureties. Such Agent shall also be specifically designated in the Surety's license application.
- J. A Corporate Surety may appoint more than one Agent; however, for each such Agent, a separate application shall be filed and all requirements of an individual Licensee shall be met with respect to application fees and security deposits.

3.03 BAIL BOND EMPLOYEE

- A. All employees (only includes those employees handling/running bonds OR includes those not handling bonds) of a Licensee shall submit an employee approval application to the Bail Bond Administrator to be placed on the Bail Bond Board agenda no later than the next regularly scheduled Board meeting following the employee hiring date. The completed application must be submitted by 5:00 p.m. the Friday before the scheduled Board meeting to be considered.
- B. Applications shall be submitted to the Bail Bond Administrator in the following manner:
 - (1) The original application and an additional paper copy of the completed application shall be mailed or hand delivered to the Bail Bond Administrator; and
 - (2) A copy of the completed application shall be emailed to the Bail Bond Administrator.
 - (3) The physical, mailing, and email address for the Bail Bond Administrator shall be listed on the Waller County Bail Bond Board website.
- C. It is required the employee obtain a state and federal criminal history report from Identigo to provide with their application to ensure compliance with Tex. Occ. Code 1704.153. The report shall be issued directly from Identigo to the Administrator for review before the employee can be approved.
- D. The Licensee shall accompany their employee(s) at each Board meeting in which any employee application will be considered.
- E. Upon request of the Licensee, approved employees shall be issued an identification card by the Bail Bond Administrator which will be labeled with the Licensee's license number.
- F. Upon receipt and acceptance of application the Administrator may issue temporary approval for the employee to operate pending final approval by the Board.

3.04 FEES

Unless otherwise approved by Commissioners' Court, application fees are non-refundable once deposited in Waller County's general fund.¹

¹ See Occ. Code 1704.101 (2): A board shall deposit fees collected under this chapter in the general fund of the county. See also Loc. Gov't. Code 113.041(c): The county treasurer may not disburse money out of the county treasury without an order for payment from an officer who is authorized by law to issue the order.

3.05 FILING DBA (assumed name)

Each Licensee who uses an assumed name shall submit to the Board a valid assumed name certificate or copy thereof properly filed with the Waller County Clerk's office, and shall list names of all owners or principles. Upon Board approval of a company name change, a new DBA shall be filed no later than the next business day.

3.06 ADDRESS/PHONE NUMBER

- A. Licensee and Corporate Surety Agents shall use the business address and business phone number that is listed on the original license application to be entered on the Licensed bail Bond Surety List, unless otherwise approved by the Board.
- B. Location and/or phone number changes are not effective until approved by the Bail Bond Board Administrator. Requests must be submitted to the Bail Bond Board Administrator identifying the new location and/or phone number and stating the proposed effective date before the request will be approved or rejected.
- C. Bondsmen shall maintain an office in the county with an address that is amenable to legal service.

3.07 EFFECTIVE DATE AND EXPIRATION

- A. Any license approved by the Board shall become effective upon the deposit of the necessary security with the county treasurer.
- B. An employee identification card is effective ten calendar days after approved by Board and shall expire on the expiration date of the Bail Bond Licensee's expiration date.
- C. Any license and all subsequently issued employee identification cards related to said license will mutually expire two years from the date the license is issued. At the time of renewal all licenses and employee ID cards will need to be renewed.

SECTION 4 – RENEWAL

4.01 PROCESS

- A. The application for renewal shall have the same form and content as an application for the original license. The applicant shall include a copy of any certificate of deposit and a copy of a recorded CD assignment. If real property is pledged, the applicant shall include a copy of

the recorded deed of trust and all other documents pertaining to real property that are required in an original application. The applicant shall also include an updated copy of their criminal history report from DPS pursuant to Tex. Occ. Code 1704.153.

- B. It is the responsibility of the Licensee to ensure that a license is renewed prior to the expiration of the current license. If a renewal application is not timely filed and the current license expires, the Licensee shall not execute bail bonds until a new license is issued.
- C. Applications for renewal will be accepted no later than the 31st day before the license expiration date and may be filed up to 90 days prior to the license expiration date.
- D. If a renewal application is not timely filed, an original application is required. If the application is granted, the Licensee has the same Bail Bond Limits as any other newly licensed individual, as identified in the Texas Occupations Code Section 1704.203(f)(1) with no credit given for the expired prior license.

4.02 FEES

The fee to renew a license is the same as an original license application. Unless otherwise approved by Commissioners Court, all fees are non-refundable once deposited in Waller County's general fund.

SECTION 5 – WITHDRAWAL OF APPLICATION/LICENSE

Any application may be withdrawn by the Applicant or Licensee without penalty prior to the posting of the Board's Public Meeting Agenda. Any application posted on the Board's Public Meeting Agenda that is not approved at the scheduled meeting is void and will require the Applicant to submit a new application with a new filing fee. It is the sole responsibility of the Applicant to confirm the posting date with the Bail Bond Administrator for purposes of withdrawing an application.

SECTION 6 – DEPOSIT AND WITHDRAWAL OF COLLATERAL

6.01 REAL PROPERTY

- A. Before a Licensee can rely on non-exempt, non-homestead real property as collateral (in whole or in part), the Deed of Trust shall be presented to the Board for approval. If the

Board votes to accept the deed of trust, the Board will issue a value for the property for the sole purpose of determining the bail bond limit for the Licensee.

- B. All property executed in a Deed of Trust must be located in the State of Texas. The property does not have to be in Waller County.
- C. Any property executed in a Deed of Trust cannot be property used for security of bail bonds in other counties (both bail bond board counties and non-bail bond board counties).
- D. The Deed of Trust shall:
 - (1) Be submitted only on a form approved by the Board; and
 - (2) Name the Board as trustee.
- E. The Bail Bond Administrator shall record a copy of the deed of trust with the County Clerk of the County where the property is located. Licensee shall reimburse the Board for the actual cost to file the Deed of Trust before the property may be added to the Licensee's Bail Bond Limits.
- F. The original recorded Deed of Trust will be held by the Board.
- G. If the subject property is (or becomes) subject to any liens of any kind, the Licensee shall provide a certified copy of the lien document to the Board no later than the 15th day after the Licensee learns of the lien.

6.02 CASH OR CERTIFICATE OF DEPOSIT

- A. A Licensee that relies upon collateral other than real property shall submit at least Fifty Thousand Dollars (\$50,000.00) in cash, or cash equivalent, styled in the name of the Waller County Treasurer and issued by a financial institution insured by the federal government in one of the following forms:
 - (1) Cashier's checks and Certificates of Deposit shall be styled "Waller County Treasurer for the benefit of _____".
 - (2) The Board will not accept Certificates of Deposit or Cashier's Checks not made payable to Waller County Treasurer or those containing, or subject to, set-off provisions. Applicant for a license/licensed bail bond sureties using cashier's checks or certificates of deposit for security shall deliver the original cashier's checks or certificates of deposit to the Waller County Treasurer.

- (3) The Waller County Treasurer shall take possession of the original cashier's checks or certificates of deposit and the security assignment.
 - (4) The certificate of deposit shall show the Waller County Treasurer's address as the address to which all renewal notices and/or other notifications of changes shall be sent. The applicant shall provide their Tax ID Number or Social Security Number along with the certificate of deposit and shall be responsible for all tax consequences arising from the designee.
- B. A signed and completed Assignment of Security form approved by the Board shall accompany all Certificates of Deposit. The Bail Bond Administrator shall submit a copy of the assignment to the issuing bank and the Waller County Treasurer.
 - C. All Certificates of Deposit are subject to being confirmed with the issuing bank for validity.

6.03 COMBINATION

Licensees are not permitted to meet the minimum security requirement by using a combination of security deposits. Upon meeting the statutory minimum, a licensee can post any amount of additional security in the form of cash, real property or a combination of both.

6.04 WITHDRAWAL

- A. Licensee shall withdraw security only as provided by Texas Occupations Code Section 1704.210, or by these Rules.
- B. No Licensee shall withdraw security from deposit, or make changes to the nature, location, identification or amount of security deposited, without the Board's knowledge and approval.
- C. If the Licensee's liability, actual or potential, falls below the amount of security pledged, the Licensee may, with the Board's approval, withdraw security to the extent that the remaining security is sufficient to cover the license holder's liability.
- D. The licensee may, with Board approval, substitute one form of security for another, provided that the security remains sufficient to cover the license holder's actual or potential liability.

SECTION 7 – ACTIVITY OF LICENSEE/AGENT/EMPLOYEE

7.01 BOND FORMS

- A. Any Surety bond form filed in Waller County shall show on its face the date of expiration of the license and the license number.
- B. All bonds shall use a standard pre-approved form. This form can be typed or handwritten, but it must be legible and all information must be filled out. If there is any missing information, the bond will not be accepted.
- C. Any licensee executing a bond issued under corporate power of attorney is required to attach a copy of the power of attorney authorization to the bond presented to the Sheriff's Office. The power of attorney authorization must be in an amount equal to or in excess of the bond amount.

7.02 USE OF EMPLOYEE IDENTIFICATION CARD

The only credential authorized by the Board to permit a Licensee or employee to perform bail bond business is the identification card issued by the Bail Bond Administrator. A Bail Bond Delivery Affidavit may be used in limited cases but the Affidavit shall only be in the form approved by the Board. Presentment of any other type of document not named in Rule 7.02 is prohibited, including but not limited to an "Assignment of Authority" document.

7.03 ACTIVITY REPORTS

- A. Licensees shall submit a complete/total outstanding activity report for the previous month to the Bail Bond Administrator's office no later than the 2nd Thursday of the month by 12:00 PM (noon) on a form approved by the Board. If licensee had no activity during the month, a blank report shall be submitted stating "NO ACTIVITY".
- B. The Bail Bond Administrator shall review the monthly reports to determine whether a Licensee has exceeded the statutory bond writing limits of the security posted.
- C. Licensees who exceed their statutory bond writing limits are immediately suspended until they reduce their outstanding bonds below their statutory bond writing limits.
- D. Late Reports:

- (1) Licensees who fail to timely submit *an accurate and complete* activity report shall receive one written warning per calendar year and be directed to submit their corrected reports within 48 hours of the written warning being received.
- (2) Licensees who receive their second (or more) warning in the calendar year will be automatically suspended until the next Bail Bond Board meeting the month following suspension.
- (3) Licensees who fail to timely submit an accurate and complete activity report after having received a written warning will be placed at the bottom of the Licensed Bail Bond Surety List for the longer duration of two consecutive months or until their report is finally received.

7.04 BAIL BOND LIMITS

- A. All bonds issued in Waller County will be subtracted from a Licensee's security for purposes of the Licensee's Bail Bond Limits, including bonds executed in Waller County and transferred to another county. It is the responsibility of the Licensee to provide government issued verification to the Bail Bond Administrator when a case has been dismissed or a defendant is deceased in order to update the amount of security available to the Licensee.
- B. The Bail Bond Administrator shall notify the Sheriff of any Licensee that has executed a bond in excess of the Licensee's Bail Bond Limits.
- C. The Bail Bond Administrator shall notify the District Attorney's Office that the Licensee's bonds may be insufficient in the event that a Licensee is deceased or becomes incapacitated.
- D. If a Licensee is suspended by the Board for any reason, the Licensee will be removed from the Licensed Bail Bond Surety List. Upon reinstatement of the license, the company will be placed at the bottom of the list.

7.05 JUDGMENTS

- A. Upon notification that a Licensee or attorney has failed to pay a final judgment, the Bail Bond Administrator shall notify the Sheriff as provided by Texas Occupations Code, Section 1704.204(a).

- B. The Bail Bond Administrator shall also send notification of the failure to pay a final judgment to the County Treasurer, the County Auditor and any other County department that issues payment.²

7.06 SECURING PRESENCE OF DEFENDANT WHO FAILS TO APPEAR

A Licensee shall not contract with or employ an individual to secure the appearance of a defendant accused of failure to appear/bond jumping unless the individual is licensed or endorsed as required by law.³

7.07 ADVERTISING LOCATION

No bondsman (licensed or exempt) shall place or permit to be placed, any advertising at any place where prisoners are examined, processed or confined. The dissemination of personal or professional cards shall be deemed advertising.

7.08 ADVERTISING RESTRICTION

Advertising for a licensee shall not contain any representation that he is associated with any attorney or any firm that engages in investigative services.

SECTION 8 – COMPLAINTS TO BOARD

- A. Any member of the public and/or member of the bond community may submit a sworn written complaint to the Bail Bond Administrator on a form approved by the Board. All complaints requesting action must be sworn, except as provided herein.
- B. County staff may refer a written incident to the Bail Bond Administrator without a sworn complaint provided that the matter referred was observed in the course of the employee's work duties.
- C. Copies of all complaints received will be provided to Licensees and their Corporate Sureties (where applicable).
- D. The Bail Bond Administrator will forward all complaints to the Complaint Committee members for review. The committee shall determine whether the complaint will be

² See Local Government Code 154.025 and 262.0276

³ See Texas Occupations Code 1702.3863