

BELL COUNTY BAIL BOND BOARD

BELTON, TEXAS

RULES AND REGULATIONS

Amended August 19, 2010

Pursuant to the provisions of *Section 1704, Texas Occupation Code*, as amended, the following rules and regulations are established for the Bell County Bail Bond Board.

Rule 1. GENERAL PROVISIONS

1.01 - Application

These rules and regulations apply to all individual bonding companies or corporations licensed to write bonds in Bell County, Texas.

1.02 - Definitions

- A. The Act or this Act means *Section 1704, Texas Occupation Code* as amended.
- B. "Bail Bond" means a cash deposit, or similar deposit or written undertaking, or a bond or other security, given to guarantee the appearance of a defendant in a criminal case.
- C. "Bail bond surety" means a person who:
 - 1. Executes a bail bond as a surety or cosurety for person; or
 - 2. For compensation deposits cash to ensure the appearance in court of a person accused of a crime.
- D. "Board" means The Bell County Bail Bond Board
- E. "Bonding business" means the solicitation, negotiation, or execution of a bail bond surety.
- F. "Final judgment" means a judgment that disposes of all issues and parties in a Case.
- G. "Person" means an individual or corporation.

RULE 2. BELL COUNTY BAIL BOND BOARD

2.01 - Board Composition (1704.053)

- A. The Bell County Bail Bond Board shall consist of the following persons:
 - 1. Sheriff or a designee from the sheriff's office who must be the sheriff's administrator or deputy sheriff of the rank of at least sergeant;
 - 2. A district judge of the county having jurisdiction over criminal matters and designated by the presiding judge of the administrative judicial district;
 - 3. The county judge, a member of the commissioners court designated by the county judge, or a designee approved by the commissioners court;
 - 4. A county court at law judge in the county having jurisdiction over criminal matters and designated by the local county court at law administrative judge;
 - 5. The district attorney or an assistant district attorney designated by the district attorney;
 - 6. A licensed bail bond surety or agent for a corporate surety in the county or a bail bond

surety or agent for a corporate surety licensed in the county who is designated by elected surety or agent;

7. A justice of the peace;

8. The district clerk or the clerk's designee;

9. The county clerk or the clerk's designee, if the county clerk has responsibility over criminal matters;

10. The county treasurer or the treasurer's designee or, if appointed by the Commissioners court in a county that does not have a county treasurer, a person designated by the county commissioners court to perform the duties of the county treasurer; and

11. A criminal defense attorney practicing in the county and elected by other attorneys whose principal places of business are located in the county and who are not legally prohibited from representing criminal defendants or the designee of the criminal defense attorney.

B. Persons elected, appointed, or designated by the proper authority to serve on the Board shall continue to serve until a successor is properly elected, appointed or designated unless for any reason the person so elected, appointed, or designated be sooner disqualified. In such event, the secretary shall request the proper authority to appoint or designate a proper person to fill the vacancy or shall call for an election by licensed bondsmen to select a bondsmen's representative.

2.02 - Election of bail bond surety board member (1704.0535)

A. The board shall annually conduct secret ballot election to elect the member of the board who serves as the representative of licensed bail bond sureties by electing a licensed bail bond surety or agent for a corporate surety board member.

B. The bail bondsmen's representative on the Board shall be a licensed bonds person, actively engaged in the bail bond business who shall be elected for a term of one year by majority vote of licensed bonds person voting at the regular meeting of the board. The bonds person's representative shall continue to serve until his replacement be duly qualified. Should the bonds person's representative become disqualified to serve because their license to write bonds has been suspended, revoked, surrendered or terminated, an election will be held inlike manner to elect a new bondsmen's representative to fill the unexpired term of the disqualified representative or the period of suspension as the case may be.

C. Each individual licensed in the county as a bail bond surety or agent for a corporate surety is entitled to cast one vote for each license held.

D. Upon receipt by the Secretary of the Board of a petition requesting a recall election for the bonds person's representative on the Board, the Secretary shall set the same on the agenda of the Board for the next regular meeting of the Board provided the petition contains the verified signatures of at least 50% of the bondsmen licensed to write bail bonds in Bell County. If such a petition is filed with the Secretary within 10 days of the Board's next regular meeting, it shall be set for the regular meeting of the Board in the month after the date of filing, otherwise it shall be considered at the regular meeting of the Board in the month of filing. At such meeting, the Board shall hold an election in the regular manner for a bonds person's representative to serve the unexpired term of the current bonds person's representative.

2.03 Election of Officers (1704.054)

A. At the regular meeting of the Board in October of even numbered years, the Board shall choose one of its members to serve as chair until the next election, unless the person chosen as chair be sooner disqualified. In such event a new chair shall be elected by the Board.

B. In like manner, the Board shall choose a vice-chair who shall act in the temporary absence of the Chair. In the event the Chair be disqualified for any reason before the end of his term, the vice-chair shall automatically become the chair. In such event, or if the vice-chair becomes disqualified, at the next regular meeting a new vice-chair shall be chosen.

C. In like manner the Board shall choose a secretary who shall act as chair in the temporary absence of the chair and vice-chair. The secretary shall be responsible for supervising the receipt of applications; the preparation of agendas; the preparation and certification of records and transcripts of proceedings; the maintenance of records and minutes of meetings; the publication or posting of notices; and the general office affairs not otherwise specifically assigned by these rules and regulations. The Board may designate by resolution an assistant secretary, who need not be a member of the Board, to assist the secretary in the discharge of the secretary's duties. If a member of the Board, the actions of the assistant secretary shall have the same effect and validity as the actions of the secretary. The assistant secretary may sign any notices, correspondence, certify records, etc., in the secretary's name. In the event the secretary or assistant secretary becomes disqualified for any reason before the end of their term a new secretary or assistant secretary shall be selected.

D. All proceedings not governed by specific statutory provision or rule of the Board shall be conducted in accordance with Roberts Rules of Order and the presiding officer shall be ex-officio Parliamentarian.

2.04 - Meetings (1704.55)

A. This Board shall meet regularly on the third Thursday of each month, or the first business day thereafter if such date be an official holiday; and on call of the presiding officer of the Board.

B. Meetings shall be held in the Commissioners Courtroom, second floor of the Bell County Courthouse, Belton, Texas, unless the call thereof shall specify otherwise.

C. All notices shall be posted on the bulletin board at the Bell County Courthouse Annex (In front of the County Clerk's Office), Belton, Texas. The office of the Board shall be the regular office of the member serving as Secretary of the Board unless notice be posted to the contrary pursuant to resolution of the Board.

2.05 - Quorum; Majority Vote (1704.056)

A. Four members of a board constitute a quorum.

B. A board may take action only on a majority vote of the board members present.

RULE 3. BOARD POWERS AND DUTIES

3.01 - Administrative Authority (1704.101)

In addition to the powers and duties given the Bell County Bail Bond Board by the act, the Board has the following powers and duties:

A. Exercise powers incidental or necessary to the administration of the bail bond business;

B. Deposit fees collected in the general fund of the county;

- C. Supervise and regulate each phase of the bond business in the county;
- D. Adopt and post rules necessary to administer the bail bond business;
- E. Conduct hearings and investigations and make determinations relating to the issuance, denial, or renewal of licenses;
- F. Issue licenses to qualified applicants;
- G. Deny licenses to unqualified applicants;
- H. Employ persons necessary to assist in board functions; and
- I. Conduct board business, including maintaining records and minutes.

3.02 - Enforcement Authority (1704.102)

- A. The Bell County Bail Bond Board shall:
 - 1. Enforce the Act in the County;
 - 2. Conduct hearings and investigations and make determinations relating to license suspension and revocation;
 - 3. Suspend or revoke a license for a violation of the Act or a rule adopted by the board; and
 - 4. Require a record and transcription of each board proceeding.
- B. The Board may:
 - 1. During a hearing conducted by the board, administer oaths, examine witnesses, and compel the production of pertinent records and testimony by a license holder or applicant.
 - 2. Compel the appearance before the board of an applicant or license holder; and

3.03 - Disbursement from County Fund (1704.103)

- A. Fees deposited in the general fund of the County by the board may be used only to administer and enforce this Act, including reimbursement for:
 - 1. Reasonable expenses incurred by the board in enforcing this Act; and
 - 2. Actual expenses incurred by a board member in serving on the board.
- B. For purposes of this section, serving on a board is an additional duty of a board member's office. A board member may not receive compensation for serving on a board.

3.04 - Posting of Board Rules or Actions (1704.104)

The board shall post on the bulletin board at the Bell County Courthouse Annex (In front of the County Clerk's Office), Belton, Texas, any rule adopted or an action taken by the board for 10 days preceding the date the rule or action take effect.

3.05 - Licensed Bail Bond Surety List (1704.105)

- A. The Board shall publish a current list of each licensed bail bond surety and each licensed agent. The telephone numbers of the Personal Recognizance Office shall be the first name on the list. The remainder of the list will be in alphabetical order by the last name of the owner or the name of the corporation.
- B. Following below each name the words "NIGHT NUMBER" shall be printed and the telephone number for night calls, which number may be the same as, or different than the regular business number.
- C. The published list of licensed bondsmen and their agents will be furnished to and posted by

the Board in each Court in the County having jurisdiction of criminal cases and each local official responsible for the detention of prisoners in the County. The list must be displayed at each location where prisoners are examined, processed, or confined.

D. No Sheriff, peace officer, or his deputy or employee, or clerk, or deputy clerk of any court will permit any identifying or emphasizing mark to be made on such published list. If the published list is so marked, it shall be the responsibility of the local official or clerk to obtain a new unmarked list for display.

E. No bondsman (licensed or exempt) shall place, or permit to be place, any advertising at any place where prisoners are examined, processed or confined.

F. When a new license is issued, the new licensee may be added to the published list in an inconspicuous manner until the next list be published by the Secretary, or the Assistant Secretary.

G. No unlicensed person (even those exempt from licensing) may be placed on the list except for a listing of the Personal Recognizance Office.

3.06 - Notification of License Suspension or Revocation (1704.107)

A board shall immediately notify each court and each local official responsible for the detention of prisoners in the county of:

- A. The suspension or revocation of a license issued under the Act, and
- B. The revocation of the authority of a license holder's agent.

3.07 - Notification of Default by a Corporation (1704.18)

The Texas Department of Insurance if a corporation fails to pay a judgment of forfeiture.

3.08 - Solicitation and Advertisement (1704.109)

A. A bail bond surety, an agent of a corporate surety, or an employee of the surety or agent may not make, cause to be made, or benefit from unsolicited contact:

1. Through any means, including in person, by telephone, by electronic methods, or in writing, to solicit bonding business related to an individual with an outstanding arrest warrant that has not been executed, unless the bail bond surety or agent for a corporate surety has an existing bail bond on the individual; or

2. In persons or by telephone to solicit bonding business;

a. That occurs between the hours of 9 p.m. and 9 a.m. or

b. Within 24 hours after;

(i) The execution of an arrest warrant on the individual; or

(ii) An arrest without a warrant on the individual.

B. This section does not apply to a solicitation or unsolicited contact related to a Class C misdemeanor.

C. Advertising for a licensee shall not contain any representation that the licensee is associated with any attorney or any firm that engages in investigative services or that the licensee is an official agency of Bell County, Texas.

RULE 4. LICENSING REQUIREMENTS

4.01 - License Required (1704.151 and 1704.163)

A. A person may not act as a bail bond surety or as an agent for a corporate surety in Bell County unless the person holds a license issued under the Act or the person is licensed to practice law in Texas and represents the principal in the criminal case for which the bond was given.

B. An attorney executing a bail bond or acting as a surety under the exemption may not engage in conduct that would subject a bail bond surety to license suspension or revocation. If the board determines that an attorney has engaged in such conduct, the attorney may not execute a bail bond or act as a surety until the attorney has remedied the violation.

C. An attorney executing a bail bond or acting as a surety for a fee is not relieved of liability on the bond solely because the attorney has not been employed to represent the principal on the merits of the criminal case.

4.02 - Eligibility (1704.152 and 1704.153)

A. To be eligible for a bail bond license, an individual, including an agent designated by a corporation in an application, must:

1. Be a resident of this state and a citizen of the United States;
2. Be at least 18 years of age;
3. Possess the financial resources required to comply with the Act, unless the individual is acting only as agent for a corporation holding a license under this chapter; and
4. Have, in the two years preceding the date a license application is filed:
5. At least one year of continuous work experience in the bail bond business; and
6. Completed in person at least eight hours of continuing legal education in criminal law courses or bail bond law courses that are approved by the State Bar of Texas and that are offered by an accredited institution of higher education in the state.

B. To be eligible for a license under this Act, a corporation must be:

1. Chartered or admitted to do business in this state; and
2. Qualified to write fidelity, guaranty, and surety bonds under the Insurance Code.

C. The requirements for a year's work experience and for continuing education does not apply to the issuance of an original license nor to an individual who applies to operate the bail bond business of a license holder who has died if the individual is related to the decedent within the first degree by consanguinity or is the decedent's surviving spouse.

D. A person is not eligible for a license under this Act if, after August 27, 1973, the person commits and is finally convicted of a misdemeanor involving moral turpitude or a felony.

4:03 - Agent Identification Card (1704.101)

A. GENERAL

1. A bondsman shall obtain an agent identification card for all persons engaged in conducting bail bond business for the bondsman.

2. An identification card issued to the licensee or his agent by the Bell County Bail Bond Board must be presented each time a licensee or his agent presents a bail bond for the release of a prisoner. Such identification card shall be issued to the licensee or to his agent in accordance with the provisions of these Regulations.

B. APPLICATION

1. The application for an agent identification card shall be in the form adopted by the Board.
2. A request for an identification card for persons to be designated as agents shall be accompanied by a check payable to the County Treasurer of Bell County in the amount of \$5.00 to cover the costs relating to the issuance of such identification card. This fee shall be dealt with in the same manner and for the same purposes as original license fees under the Act.
3. The application shall be filed with the Secretary of the Board and shall have attached a photograph.
4. Upon receipt of an application for an identification card, the Secretary shall notify the other Board members. If no objection is made by any Board member or other interested person, within 10 days of the filing of the application it shall be deemed approved and the identification card shall issue.
5. If for any reason a question is raised as to whether the identification card should issue, the Secretary shall, with the Approval of the Chair of the Board call a meeting of the Board to pass upon such application. Notice shall be given to the licensee and the applicant of the meeting and of the grounds for objection to the approval of the application.
6. No person duly licensed by this Board may also be the designated agent of another licensee except as the agent of an insurance company.

C. CRIMINAL CHARGES

1. No person is eligible for an agent identification card who has within the preceding 10 years been convicted of a misdemeanor offense involving moral turpitude or any felony. No identification card shall issue to any agent against whom criminal charges are pending for such an offense, during the pendency of such charges.
2. The licensee and the agent for whom an identification card is requested are deemed by such request to have consented to the immediate temporary suspension of such card upon the return of an indictment charging such agent with the commission of a felony offense or of any offense involving moral turpitude or upon the filing of a complaint or information charging the agent with a misdemeanor involving moral turpitude. The licensee and the agent further agree to surrender the identification card to the Secretary of the Bail Bond Board upon the institution of such charges.

D. SURRENDER OF IDENTIFICATION CARD

1. If a licensee revokes the authority of any of its agents to make Bailbonds on its behalf, or if any agent terminates his employment with the licensee, the licensee shall give written notice of such action to the Secretary of the Board and shall surrender to the Secretary of the Board the identification card previously issued for such agent, unless good cause be shown why the identification card cannot be returned.
2. The above notice and surrender of identification card shall be given within 10 days of the date of the agent's authority is revoked or his employment with the licensee is terminated.

4.04 - Application Requirements (1704.154)

A. To be licensed in Bell County, the applicant shall submit to the Secretary of the Board an original and ten copies of a sworn application.

B. The application must:

1. Be in a form approved by the Board and contain the information prescribed by the board;

2. State:

- a. The applicant's name, age, and address;
- b. If the applicant is a corporation, whether the applicant is:
 - (i) Chartered or admitted to do business in this state; and
 - (ii) Qualified to write fidelity, guaranty, and surety bonds under the

Insurance Code;

- c. The name under which the bail bond business will be conducted, including a bail bond business that is conducted by an agent of a corporation;
- d. Each place, including the street address and municipality, at which the business will be conducted; and
- e. The amount of cash or the cash value of a certificate of deposit or cashier's check that the applicant intends to deposit with the county treasurer if the applicant's application is approved, or, if the applicant is an individual intending to execute nonexempt real property in trust to the board, the value of the real property;

C. If the applicant is an individual, be accompanied by a list of nonexempt real property owned by the applicant that the applicant intends to execute in trust to the board if the applicant's application is approved; and

D. Be accompanied by:

1. The applicant's complete, sworn financial statement;
2. The applicant's declaration that the applicant will comply with the Act and the rules adopted by the board;
3. Three letters of recommendation, each from a person who:
 - a. Is reputable; and
 - b. Has known the applicant or, if the applicant is a corporation, the agent designated by the corporation in the application for at least three years;
4. A \$500.00 filing fee; This payment is a filing fee and may be refundable at the discretion of the Bail Bond Board until such time as the application is included on the agenda of the Board. After such time the filing fee is non-refundable.
5. A photograph of the applicant or, if the applicant is a corporation, of the agent designated by the corporation in the application;
6. A set of fingerprints of the applicant or, if the applicant is a corporation, of the agent designated by the corporation in the application taken by a law enforcement officer designated by the board;
7. If the applicant is or has been licensed under the Act in another county;
 - a. A list of each county in which the applicant holds a license; and
 - b. A statement by the applicant, as of the date of the application, of any final judgments that have been unpaid for more than 30 days and that arose directly or indirectly from a bail bond executed by the applicant as a surety or as an agent for a surety; and
8. If the applicant is a corporation, a statement by the designated agent, as of the date of the application, of any final judgments that have been unpaid for more than 30 days and that arose directly or indirectly from any bond executed by the agent as a surety or as an agent for a surety.

C. A letter of recommendation must:

1. State that the applicant or, if the applicant is a corporation, the agent designated by the corporation in the application has a reputation for honesty, truthfulness, fair dealing, and competency;

and

2. Recommend that the board issue the license.

D. A corporation must file a separate corporate application for each agent the corporation designates in the county.

4.05 - Real Property List (1704.155)

The list of nonexempt real property contain in the application must, for each parcel listed, include:

A. A legal description of the property that would be sufficient to convey the property by general warranty deed;

B. A current statement from each taxing unit authorized to impose taxes on the property showing that there is no outstanding tax lien against the property;

C. At the option of the applicant, either the property's

1. Net value according to a current appraisal made by a real estate appraiser who is a member in good standing of a nationally recognized professional appraiser society or trade organization that has an established code of ethics, educational program, and professional certification program; or

2. Value according to a statement from the county's most recent certified tax appraisal roll;

D. A statement by the applicant that, while the property remains in trust, the applicant:

1. Agrees to pay the taxes on the property;

2. Will not further encumber the property unless the applicant notifies the board of the applicant's intent to encumber the property and the board permits the encumbrance; and

3. Agrees to maintain insurance on any improvements on the property against damage or destruction in the full amount of the value claimed for the improvements;

E. A statement of whether the applicant is married; and

F. If the applicant is married, a sworn statement from the applicant's spouse agreeing to transfer to the board, as a part of the trust, any right, title, or interest that the spouse may have in the property.

4.06 - Reappraisal of Real Property (1704.156)

A. An appraisal district may not reappraise real property solely because the property owner is a license holder or an applicant for a license under this chapter.

B. An appraisal district is not prohibited from reappraising real property in connection with the appraisal of real property in the same general area or if the reappraisal is requested by the board, a license holder, or an applicant for a license.

4.07 - Preliminary Determination (1704.157)

A. Before a hearing on the application the secretary shall determine whether the applicant:

1. Possesses the necessary financial resources; and

2. Meets the other requirements for being licensed.

B. Upon completion of such investigation, the Secretary shall furnish a complete copy of all reports together with a copy of the application to each member of the Board not less than five days prior to the meeting at which the application is to be considered.

4.08 - Hearing on Application (1704.158)

A. Applications shall be considered at each regular meeting of the Board.

B. Each applicant shall be notified by the Secretary to appear in person, or in the case of a corporation by the designated representative, before the Board on the date the application is to be considered.

C. During the hearing:

1. The board may submit to the applicant or the applicant's agent any questions, under oath, relevant to the Board's decision on the application; and

2. The applicant may present oral and/or documentary evidence.

D. All discussion regarding the application shall be in open Court.

4.09 - Decision on Application; Board Order (1704.159)

A. After the hearing regarding the application, the board shall enter an order conditionally approving the application unless the board determines that a ground exists to deny the application. If the board determines that a ground exists to deny the application, the board shall enter an order denying the application.

B. An order conditionally approving an application becomes final on the date the applicant complies with the security requirements.

C. A board shall give written notice to an applicant of the board's decision on the application.

4.10 - Security Requirements (1704.160)

A. On receipt of notice that an application has been conditionally approved, the applicant, not later than the 90th day after the date the notice is received, must:

1. If the applicant is an individual:

a. Deposit with the County Treasurer a cashier's check, certificate of deposit, or cash in the amount stated in the application. The deposit may not be less than \$50,000.00; or

b. Execute in trust to the board each deed to the property listed in the application. The total value of the property executed in trust may not be less than \$50,000.00.

2. If the applicant is a corporation:

a. Deposit with the County Treasurer a cashier's check, certificate of deposit, or cash in the amount stated in the application. The deposit may not be less than \$50,000.00.

b. The corporation must make a separate deposit for each license granted in Bell County.

B. A deposit made in Bell County shall be placed in the bail security fund.

C. At the option of the applicant, the property executed in trust must be valued in the amount indicated by;

1. An appraisal by a real estate appraiser who is a member in good standing of a nationally recognized professional appraiser society or trade organization that has an established code of ethics, educational program, and professional certification program, or

2. The County's most recent certified tax appraisal roll.

D. The real estate trust is subject to the condition that the property executed in trust may, after notice is provided and under the conditions required by the Code of Criminal Procedure, be sold to satisfy a final judgment on a forfeiture on a bail bond executed by the applicant.

E. If an applicant is married, the applicant's spouse must execute each deed of trust that involves community property.

F. The Bell County Board shall file each deed of trust in the records of each county in which the

property is located. The applicant shall pay the filing fee for such recording.

G. A certificate of authority to do business in the State of Texas issued to an applicant that is a corporation in compliance with the Insurance Code, is conclusive evidence of:

1. The sufficiency of the applicant's security, and;
2. The applicant's solvency and credit.

H. A license holder must maintain the amount of security required by this section during the time the person holds the license.

4.11 - License Form (1704.161)

A. Each license issued by the Board must show on its face the license expiration date and the license number. The same license number must appear on each subsequent renewal license.

B. Each licensee shall clearly write on the face of each bail bond and each affidavit to surrender executed in Bell County the license number assigned by the board.

4.12 - License Expiration and Renewal (1704.162)

A. A license issued or renewed under the Act expires on the second anniversary after the date the license is issued or is to expire, as appropriate, if the license:

1. Has been issued for less than eight consecutive years; or
2. Has been suspended.

B. To renew a license, a license holder must file with the board an application for renewal not later than the 31st day before the license expiration date.

C. An application for renewal must comply with the requirements for an original license application including the \$500 filing fee requirement.

D. The board shall approve an application for renewal if:

1. The applicant's current license is not suspended or revoked; and
2. The board does not determine that a ground exists to deny the application.

E. A person who applies to renew a license that has been held by the person for at least eight consecutive years without having been suspended or revoked may renew the license for a period of 36 months from the date of expiration if the board;

1. Knows of no legal reason why the license should not be renewed; and
2. Determines that the applicant has submitted an annual financial report to each county bail bond board before the anniversary date of the issuance of the applicant's license.

F. A license renewed for a period of 36 months may be renewed subsequently each 36 months in a similar manner.

G. The board may disapprove an application only by entering an order.

RULE 5. BOND BUSINESS

5.01 - Acceptance of License Holder Bail Bonds (1704.201)

The Bell County Sheriff's Office shall accept or approve a bail bond executed by a person licensed by the Board if:

A. The bond is for a county or district case;

- B. The bond is executed in accordance with the Act and the rules adopted by the board; and
- C. A bail bond is required as a condition of release of the defendant for whom the bond is executed.

5.02 - Recording Requirements (1704.202)

- A. A license holder shall maintain;
 - 1. A record of each bail bond executed by the license holder; and
 - 2. A separate set of records for each county in which the license holder is licensed.
- B. The records required to be maintained under the Act must include for each bail bond executed and enforced;
 - 1. The style and number of the case and the court in which the bond is executed;
 - 2. The name of the defendant released on bond;
 - 3. The amount of bail set in the case;
 - 4. The amount and type of security held by the license holder; and
 - 5. A statement of:
 - a. Whether the security held by the license holder is:
 - (i) For the payment of a bail bond fee; or
 - (ii) To assure the principal's appearance in court; and
 - b. The conditions under which the security will be returned.
- C. The records required shall be:
 - 1. Made available for inspection and copying at the board's expense on demand by the board or an authorized representative of the board;
 - 2. Maintained at the license holder's office location in the county; and
 - 3. Maintained for not less than four years after the conclusion of the case for which the bond was given.

D. Each licensee shall provide to the Bell County Auditor's office by the 12th day of each month a report showing the total amount of bonds outstanding and the total amount of pending judgment nisi for their company in Bell County.

5.03 - Bail Bond Limit; Additional Security (1704.203)

- A. This section does not apply to a license holder that is a corporation.
- B. A license holder who holds a license originally issued before September 1, 1999, may not execute, and a person may not accept from the license holder, a bail bond that, in the aggregate with other bail bonds executed by the license holder in Bell County results in a total amount that exceeds 10 times the value of the security deposited or executed by the license holder.
- C. The Bell County Auditor's Office shall prepare a report for the Board each month indicating the total current liability on bail bonds that each license holder has in Bell County. The report shall be prepared from the records maintained by the auditor's office and the monthly reports submitted by each licensee showing the amount of bonds outstanding and the amount of pending Nisi.
- D. A license holder may not execute a bail bond if the amount of the license holder's current total liability on judgments nisi in that county equals or exceeds twice the amount of security deposited or executed by the license holder.
- E. A bail bond surety who holds a license originally issued on or after September 1, 1999, and

who:

1. Has been licensed for fewer than two years or has had a license under the act suspended or revoked may not execute, and a person may not accept from the license holder, bail bonds that in the aggregate exceed 10 times the value of property held as security plus five times the value of property held in trust.

2. Has been licensed for at least two years and fewer than four years may not execute, and a person may not accept from the license holder, bail bonds that in the aggregate exceed 10 times the value of property held as security plus six times the value of property held in trust.

3. Has been licensed for at least four years and fewer than six years may not execute, and a person may not accept from the license holder, bail bonds that in the aggregate exceed 10 times the value of property held as security plus eight times the value of property held in trust.

4. Has been licensed for at least six years may not execute, and a person may not accept from the license holder, bail bonds that in the aggregate exceed 10 times the value of property held as security plus 10 times the value of property held in trust.

F. A license holder, at any time, may increase their limits by depositing or executing additional security.

5.04 - Payment of Final Judgment (1704.204)

A. A person shall pay a final judgment on a forfeiture of a bail bond executed by the person not later than the 31st day after the date of the final judgment unless a timely motion for a new trial has been filed. If a timely motion for a new trial or a notice of appeal has been filed, the person shall:

1. Pay the judgment not later than the 31st day after the date the motion is overruled, if the motion is overruled; or

2. Deposit with the court cash or a supersedeas bond in the amount of the final judgment, if an appeal is filed.

B. If a license holder fails to pay a final judgment as required, the judgment shall be paid from the security deposited or executed by the license holder.

5.05 - Bail Bond Settlement (1704.205)

Before a final judgment on a forfeiture of a bail bond:

a. The prosecuting attorney may recommend to the court a settlement in an amount less than the amount stated in the bond; or

b. The court may, on its own motion approve a settlement.

5.06 - Replacement of Security (1704.26)

If a final judgment on a forfeiture of a bail bond is paid from the security deposited or executed by a license holder, the license holder shall deposit or execute additional security in an amount sufficient to comply with the initial security requirements.

5.07 - Surrender of Principal; Contest (1704.207)

A. A person executing a bail bond may surrender the principal for whom the bond is executed by:

1. If the principal is represented by an attorney, notifying the principal's attorney of the person's intention to surrender the principal in a manner provided by Rule 21a, Texas Rules of Civil Procedure; and
2. Filing an affidavit with the court or magistrate before which the prosecution is pending that states;
 - a. The person's intention to surrender the principal;
 - b. The court and cause number of the case;
 - c. The name of the defendant;
 - d. The offense with which the defendant is charged;
 - e. The date of the bond;
 - f. The reason for the intended surrender; and
 - g. The date that notice of the person's intention to surrender the principal was provided to principal's attorney.

B. If a principal is surrendered and the principal or an attorney representing the state or an accused in the case determines that a reason for the surrender was without reasonable cause, the person may contest the surrender in the court that authorized the surrender.

C. If the court finds that a contested surrender was without reasonable cause, the court may require the person who executed the bond to refund to the principal all or part of the fees paid for execution of the bond. The court shall identify the fees paid to induce the person to execute the bond regardless of whether the fees are described as fees for execution of the bond.

5.08 - Bond Liability (1704.208)

A. A person executing a bail bond is relieved of liability on the bond on the date of disposition of the case for which the bond is executed.

B. Disposition of a case occurs on the date the case is dismissed or the principal is acquitted or convicted.

5.09 - Bond Discharged on Appeal (1704.209)

A. Unless the bail bond has been executed for purpose of appeal, the bail bond shall be discharged if;

1. The principal appeals the case for which the bond is executed; and
2. The person who executed the bond does not agree to continue during the appeal as surety.

B. A court may not require a person who executes a bail bond to continue as surety while the principal appeals the case for which the bond is executed unless the person agrees to continue during the appeal as surety.

5.10 - Withdrawal of Security (1704.210)

A. A license holder may withdraw the security deposited or executed and the security shall be returned to the license holder or the license holder's heirs or assigns, if:

1. The license holder:
 - a. Ceases to engage in the bonding business;
 - b. Ceases to maintain the license; and
 - c. Presents a release by the board; and
2. No judgment or bond liability, actual or potential, is outstanding against the license

holder.

B. The security returned a license holder is equal to the amount of security deposited or executed minus the amount of security:

1. Depleted to pay a judgment; and
2. Necessary to secure any unexpired obligation on a bail bond executed by the license holder.

5.11 - Corporate Power of Attorney (1704.211)

A. A corporation shall, before executing any bail bond, file with the County Clerk a power of attorney designating an agent of the corporation authorized to execute bail bonds on behalf of the corporation.

B. An agent designated by a power of attorney for a corporation hold a license under the Act must be designated by the corporation in the corporation's application for a license.

C. An agent by the Act designated by a power of attorney is not required to obtain a local recording agent license under the Insurance Code.

D. A corporation may limit the authority of an agent by specifying the limitation in the power of attorney that is filed with the Bell County Clerk and the board.

5.12 - Effect of Default by Corporation; Notice Required (1704.212)

A. A corporation may not act as a bail bond surety in Bell County if the corporation is in default on five or more bail bonds.

B. If a corporation defaults on a bail bond, the clerk of the court in which the corporation executed the bond shall deliver a written notice of the default to the appropriate police agency where bonds may be executed.

C. A corporation is considered in default on a bail bond beginning on the 11th day after the date the trial court enters a final judgment on the scire facias and ending on the date the judgment is satisfied, set aside, or superseded.

D. A corporation is not considered in default on a bail bond if, pending appeal, the corporation deposits cash or a supersedeas bond in the amount of the final judgment with the court in which the bond is executed. The deposit shall be applied to the payment of a final judgment in the case.

5.13 - Office Location (1704.213)

A. A license holder shall maintain an office in Bell County, Texas.

B. Not later than the seventh day after the date a license holder opens a new office or moves an office to a new location, the license holder shall notify the Board of the location of the office.

RULE 6. ENFORCEMENT PROVISIONS

6.01 - Investigation (1704.251)

A. The Board, on its own motion, may investigate an action of or a record maintained by a license holder that relates to a complaint that the license holder has violated the Act.

- B. The Board shall investigate an action of or a record maintained by a license holder if:
1. A court requests an investigation; or
 2. The Board receives a sworn complaint providing reasonable cause to believe that a violation of the Act has occurred.
 - a. The Secretary of the Board is designated as the agent of the Board for the receipt of complaints. The secretary shall provide each member of the Board with a copy of the complaint.
 - (i) If the secretary does not receive a written request from a board member requesting a hearing within ten (10) days after receiving the complaint, the secretary shall advise the complainant by letter that the complaint will not be heard by the board.
 - (ii) If the secretary receives a request for a hearing from a board member, the secretary shall set the complaint on the board's agenda for the next regular meeting.
 - b. The chair, vice-chair and secretary have authority to issue subpoenas upon request of any interested party.
 - c. The secretary shall give notice to the complainant and person complained of at least ten (10) days before the hearing.
 - d. Upon presentation of a complaint to the Board, the board shall take action or issue orders that the board deem appropriate.

6.02 - Discretionary License Suspension or Revocation: Grounds (1704.252)

After notice and hearing, the board may revoke or suspend a license if the license holder:

- A. Violates the Act or a rule adopted by the board under these rules;
- B. Fraudulently obtains a license under these rules;
- C. Makes a false statement or misrepresentation;
 1. In an application for an original or renewal license; or
 2. During a hearing conducted by the board;
- D. Refuses to answer a question submitted by the board during a hearing relating to the license holder's license, conduct, or qualifications;
- E. Is finally convicted under the laws of this state, another state, or the United States of an offense that;
 1. Is a misdemeanor involving moral turpitude or a felony; and
 2. Is committed after August 27, 1973;
- F. Is found by a court to be bankrupt or is insolvent;
- G. Is found by a court to be mentally incompetent;
- H. Fails to pay a final judgment.
- I. Pays commissions or fees to or divides commissions or fees with, or offers to pay commissions or fees to or divide commissions or fees with, a person or business entity not licensed under this chapter.
- J. Solicits bonding business in a building in which prisoners are processed or confined;
- K. Recommends to a client the employment of a particular attorney or law firm in a criminal case;
- L. Falsifies or fails to maintain a record required under the Act;
- M. Fails to promptly permit the board, or a representative or an agent of the board, of the county in which the license holder is licensed to inspect a record required under the Act;
- N. Acts as a bail bond surety under a suspended or expired license;

- O. Fails two or more times to maintain the required security;
- P. Fails for two consecutive months or three months in a six month period to provide the auditors office with the required monthly data.
- Q. Misrepresents to an official or an employee of the official the amount for which license holder may execute a bail bond for purposes of obtaining the release of a person on bond.

6.03 - Mandatory License Suspension or Revocation - Grounds (1704.253)

- A. The board shall immediately suspend a license if the license holder fails to maintain the amount of required security. The board is not required to provide notice or a hearing before suspending a license under this subsection. A license suspended under this subsection shall be immediately reinstated if the license holder deposits or executes the amount of required security.
- B. After notice and hearing, the board shall revoke a license if:
 - 1. The license holder fails to pay a final judgment; and
 - 2. The amount of security maintained by the license holder is insufficient to pay the final judgment.

6.04 - Failure to Pay Final Judgment (1704.2535)

- A. The board or it authorized representative shall immediately notify the sheriff if a bail bond surety fails to pay a final judgment of forfeiture.
- B. After receiving notification, the sheriff may not accept any bonds from the bail bond surety until the surety pays the judgment.
- C. The bail bond surety's privilege to post bonds is reinstated when the bail bond surety pays the judgment.
- D. The board is not required to provide notice or a hearing before making the notification required by this section.

6.05 - Notice and Hearing (1704.254)

- A. Notice of a hearing to suspend or revoke a license must:
 - 1. Be sent by certified mail to the last known address of the license holder not later than the 11th day before the date of the hearing;
 - 2. State each alleged violation of the Act or rule adopted by the board, and;
 - 3. Include a copy of any written complaint on which the hearing will be based.
- B. The hearing is limited to each alleged violation stated in the notice.
- C. During the hearing, the license holder:
 - 1. Is entitled to an opportunity to be heard; and
 - 2. May present and cross-examine witnesses.
- D. The hearing must be recorded. A license holder may obtain a copy of the record on request and payment of the reasonable costs of transcription.

6.06 - Effect of Board Order (1704.257)

- A. A board order denying an application for a license or renewal of a license, or suspending or revoking a license, becomes final on the 31st day after the date the applicant or license holder receives notice of the order unless the applicant or license holder files an appeal.

- B. A board order has full force and effect pending determination of the appeal.

RULE 7. PROHIBITED CONDUCT

7.01 - Return of Security (1704.301)

A bail bond surety may not hold security for the payment of a bail bond fee or to assure the principal's appearance in court for more than 30 days after the date on which the owner of the security:

- A. Requests return of the security in writing; and
1. Submits to the bail bond surety written evidence of the conclusion of:
 - (i) The payment agreement; or
 - (ii) All of the criminal cases for which the security was given.

7.02 - Prohibited Referrals of or Employments with bonding business (1704.109 & 1704.302)

A. A person in the bonding business may not directly or indirectly give, donate, lend, or contribute, or promise to give, donate, lend, or contribute, money or property to an attorney, police officer, sheriff, deputy, constable, jailer, or employee of a law enforcement agency for the referral of bonding business.

B. A person may not accept or receive from a license holder money, property, or any other thing of value as payment for the referral of bonding business unless the records of the board show that the person is an agent or employee of the license holder.

C. A person may not accept or receive from a license holder money, property, or any other thing of value as payment for employment with a bonding business if, within the preceding 10 years, the person has been convicted of a misdemeanor involving moral turpitude or of a felony.

7.03 - Bail Bond Surety Activity (1704.109 & 1704.303)

A. A person required to be licensed under this Act may not execute a bail bond unless the person holds a license issued by the Board.

B. A person may not advertise as a bail bond surety in Bell County unless the person holds a license issued under the Act by the Bell County Bail Bond Board. A person is not in violation if the person places an advertisement that appears in more than one county and:

1. The advertisement clearly indicates the county or counties in which the person holds a license issued under the Act; and
2. Any local telephone number in the advertisement is a local number in Bell County.

7.04 - Prohibited Recommendations or Solicitations (1704.109 & 1704.304)

A. A bail bond surety or an agent of a bail bond surety may not recommend or suggest to a person for whom the bail bond surety executes a bond the employment of an attorney or law firm in connection with a criminal offense.

- B. The following persons may not recommend a particular bail bond surety to another person:
1. A police officer, sheriff, or deputy;
 2. A constable, jailer, or employee of a law enforcement agency;

3. A judge or employee of a court;
4. Another public official; or
5. An employee of a related agency;

6. It is an exception to the provisions of this section if the recommended bail bond surety is the Bell County Personal Recognizance Office and it's employees.

C. A bail bond surety or an agent of a bail bond surety may not solicit bonding business in a police station, jail, prison, detention facility, or other place of detainment for persons in the custody of law enforcement.

D. A person may not place a device in a place of detention, confinement, or imprisonment that dispenses a bail bond in exchange for a fee.

7.05 - Bail Bond Receipt and Inspections (1704.305)

A. A bail bond surety or an agent of a bail bond surety may not receive money or other consideration or thing of value from a person for whom the bail bond surety executes a bond unless the bail bond surety or agent issues a receipt to the person.

B. The receipt must state:

1. The name of the person who pays the money or transfers the consideration or thing of value;
2. The amount of money paid or the estimated amount of value transferred;
3. If the person transfers consideration or a thing of value, a brief description of the consideration or thing of value;
4. The style and number of the case and the court in which the bond is executed; and
5. The name of the person receiving the money, consideration, or thing of value.

C. A bail bond surety or an agent of a bail bond surety shall retain a duplicate copy of the receipt. The copy of the receipt shall be made available for inspection by:

1. A representative of the board in any county in which the bail bond surety is licensed; and
2. An appointed representative of a court in which the bail bond surety agrees to execute bail bonds.

7.06 - Records (1704.306)

A person commits an offense if the person falsifies a record required to be maintained under the Act.

RULE 8. SEVERABILITY OR CONFLICT

A. If any provision of the Bell County Rules and Regulations, or the application of the Rules and Regulations, are held invalid, the other provisions or applications that can be given effect without the invalid provision or application will remain in full force and effect. These Rules and Regulations are declared severable.

B. If there is a conflict between these Rules and Regulations and the Act, the Act will prevail.

These amended Rules and Regulations were approved by the Bell County Bail Bond Board on the 19th Day of August, A. D. 2010.

DONALD G. ENGLEKING
Chair of the Board

ATTEST:

SHELIA F. NOMAN
Secretary of the Board

BAIL BOND MONTHLY REPORT

NAME: _____ COMPANY NUMBER: _____

ADDRESS: _____

REPORTING PERIOD: _____, 20__ TO _____, 20__

Felony

Misdemeanors

1. Number of new bonds written this report period		
2. Dollar amount of new bonds written this report period		
3. New nisi's issued by the Court this report period		
4. Dollar amount of new nisi's issued by the Court this report period		
5. Number of Judgments due for payment at this time (does not include dismissals)		
6. Amount paid to Court this report period for Judgments due		

7. Total number of bonds outstanding IN Bell County		
8. Total \$ amount <u>all</u> bonds outstanding IN Bell County		
9. Total number of NISI's pending IN Bell County		
10. Total \$ amount <u>all</u> NISI's pending IN Bell County		
11. Total number of bonds outstanding OUTSIDE of Bell County		
12. Total \$ amount of bonds outstanding OUTSIDE of Bell County		
13. Total number of NISI's pending OUTSIDE of Bell County		
14. Total \$ amount of NISI's pending OUTSIDE of Bell County		

THIS REPORT IS DUE BY THE 12TH DAY OF EACH MONTH AT THE

BELL COUNTY AUDITOR'S OFFICE

APPENDIX
APPLICATION FOR AGENT IDENTIFICATION CARD

I, _____, am a licensee in good standing with the Bell County Bailbond Board. I request that an identification card be issued for _____ to act as agent for _____. By this application I agree that if the identification card is issued that the rights and privileges granted by the issuance of the identification card shall be immediately suspended and shall remain suspended as provided by the Rules and Regulations of the Board if after the issuance of the identification card an indictment is returned or an information or complaint is filed charging the agent with the commission of a felony offense or of an offense involving moral turpitude as provided in said Regulations. I further agree to surrender the said identification card to the Secretary of the Board upon notice of the institution of such charges.

Licensee

Agent

I, _____ do hereby swear upon oath that I have not been convicted of a felony offense or of a misdemeanor involving moral turpitude within 10 years of the date of this application. I further swear that to my knowledge there are no such charges currently pending against me. I further authorize the Sheriff of Bell County, his agent and members of the Bell County Bail Bond Board to obtain a criminal history report from the Texas Department of Public Safety Criminal Records Division and to use and examine the report for the purposes of this application. I further acknowledge and agree to all the provisions of the Rules and Regulations of the Bell County Bailbond Board respecting the issuance of this identification card including the provisions for the automatic suspension of such card and the surrender of the same as provided therein.

Signature of Applicant for Agent Identification Card

STATE OF TEXAS
COUNTY OF BELL

BEFORE ME, the undersigned authority, on this day personally appeared _____ and _____, know to me to be the persons whose names are subscribed to the foregoing instrument and who having been by me duly sworn, deposes and says that the statements made by them in the above application are true and correct.

Given under my hand and seal of office this the ____ day of _____, A.D. ____.

Notary Public

NOTE: This application requires that (1) a current photograph of the applicant be attached to this application.

RICHARD J. MILLER

County Attorney

Bell County, Texas

P.O. Box 1127
Belton, Texas 76513

(254) 933-5135
1-800-460-2355
FAX (254) 933-5150

May 6, 2005

To: Judge John Barina, Bell County Court-at-Law No. Two
Subject: Authority of the Personal Bond Office

You have requested an opinion regarding the authority of a county personal bond office to have access to confined accused persons, and its relationship, if any, to a county bail bond board.

The Code of Criminal Procedure distinguishes between types of bail bonds: personal recognizance bonds, personal bonds, cash bonds, and surety bonds.

The authority for a commissioners court to establish a county personal bond office (also termed a "personal bond pretrial release office") stems from Article 17.42, Code of Criminal Procedure. By "personal bond" is meant a bond personally obligating a defendant to pay the face amount, plus necessary and reasonable expenses incurred in locating and arresting him, should he fail to appear as required. *Op. Tex. Att'y Gen. No. JM-363 (1985)*. Unlike with a commercial bond, the accused need provide no security, in the sense of either sureties or a cash deposit. Article 17.04, Code of Criminal Procedure, dictates that a personal bond must meet the same requisites as a commercial bond (see Article 17.08), but does not require any sureties. In addition, a personal bond is required to have a defendant's name, address, and place of employment; certain identifying information; and an oath to appear as signed by the accused.

The director of a personal bond office and his or her staff are county employees and report directly to the commissioners court. Any fees collected by the office are deposited into the county treasury and may be used only to defray the expenses of the office, including extradition. The personal bond office must make an annual report of its operations to the commissioners court. In short, it is strictly a county operation and does not act as an insurer or guarantor of any bond amount.

It is within a magistrate's discretion to release a defendant on his personal bond without sureties or security, although certain situations detailed in Article 17.03 permit release of a defendant only by the court before whom the case is pending, and other conditions of the bond are required, such as substance abuse testing. A magistrate may also require home confinement and/or electronic monitoring as a condition of a personal bond. *Art. 17.44, Code of Criminal Procedure*. Unless "good cause" is shown otherwise, personal bonds are mandatory for a magistrate in releasing defendants who are found to have a mental illness or retardation and not charged with or previously convicted of a violent offense. *Art. 17.032, Code of Criminal Procedure*.

A county bail bond board is established under the authority of Subchapters B and C, Chapter 1704, Occupations Code. Licensing under Chapter 1704 is strictly for those acting as a bail bond surety or agent for a corporate surety, and the bail bond board's role is only that of oversight over licensees.

See *Sec. 1704.151, Occupations Code*. That is not a function of a personal bond office under Article 17.42, Code of Criminal Procedure, since no forfeiture is provided for as with a surety bond, and oversight is the responsibility of the commissioners court, not a bail bond board. A personal bond office is not required to be licensed.

- The statutory role of a personal bond office is to “gather and review information about an accused that may have a bearing on whether he will comply with the conditions of a personal bond and report its findings to the court before which the case is pending.” *Art. 17.42(1), Code of Criminal Procedure*. Review of an accused’s status by a personal bond office is required to precede release of that person by a court on a personal bond. *Art. 17.42(5)(a)(1), Code of Criminal Procedure*.

In summary, there is no relationship between a personal bond office and a bail bond board. The bail bond board exercises oversight of licensed sureties; the personal bond office is responsible to the commissioners court and acts as an agent for the courts in determining eligibility for personal bonds. As such agent, the personal bond office is entitled to access to confined defendants in order to review their status for eligibility for personal bonds.