

# ***LOCAL RULES OF THE McLENNAN COUNTY BAIL BOND BOARD***

*as adopted January 25, 2008*

*Amended: September 30, 2011<sup>1</sup>,  
October 28, 2011<sup>2</sup>, December 16, 2011<sup>3</sup>  
February 26, 2016<sup>4</sup>, May 25, 2018<sup>5</sup>,  
July 3, 2019<sup>6</sup>, November 20, 2020<sup>7</sup>*

---

<sup>1</sup> Rule 7.02 (e)

<sup>2</sup> Rule 11.05

<sup>3</sup> Rule 8.07

<sup>4</sup> Rule 2.01 (10 and 11) – 11 removed, latter renumbered

<sup>5</sup> Rules 7.08 and 12.03

<sup>6</sup> Rules 7.08, 8.06, 8.07, 8.08, and 9.01

<sup>7</sup> Rules 8.09

## **ARTICLE 1**

### **AUTHORITY FOR ADOPTION/PURPOSE/COMPLIANCE**

- 1.01 The Local Rules of the McLennan County Bail Bond Board are established by the McLennan County Bail Bond Board (hereinafter "Board") pursuant to the statutory mandate that the Board supervise and regulate all phases of the bail bonding business within the County and prescribe, and post any rules necessary to implement and administer Chapter 1704 of the *Occupations Code*, and any amendments thereto ("the Act").
- 1.02 These Local Rules are intended to provide clear guidelines to bondsmen in McLennan County on the various matters addressed herein, and to establish procedures for the operation of the Board and for its regulation of the bail bonding business in McLennan County. Each Bondsman, as a condition of his or her license, must comply with these rules and the provisions of the Act.

## **ARTICLE 2**

### **COMPOSITION OF BOARD**

- 2.01 In accordance with the provisions of the Act, the Board shall be composed of the following persons:
- (1) the county sheriff or a designee from his office who may be his administrator or a deputy sheriff of the rank of sergeant or greater;
  - (2) a district judge of the county having jurisdiction over criminal matters designated by the presiding judge of the administrative judicial district;
  - (3) the county judge or a member of the commissioners court designated by the county judge, or a designee approved by the commissioners court;
  - (4) a judge of a county court or a county court at law in the county having jurisdiction over criminal matters designated by the commissioners court;
  - (5) the district attorney or his designee if that person is an assistant district attorney;
  - (6) a licensed bondsman, licensed in the county, elected by other county licensees;
  - (7) a justice of the peace;
  - (8) the district clerk or his designee;
  - (9) the county clerk or a designee from his office, except in those counties where the county clerk has no criminal matters jurisdiction;

- (10) the board may appoint one or two presiding judge(s) of a municipal court located within the county;
  - (11) the county treasurer or the treasurer's designee;
  - (12) a criminal defense attorney practicing in McLennan County, elected by the McLennan County Bar Association, or a subcommittee or section thereof, who is not legally prohibited from representing criminal defendants, or his/her designee; and
  - (13) any other person designated in Chapter 1704 of the Occupations Code, as it may be amended from time to time, to serve on the Board.
- 2.02 In an election of the bail bondsmen's representative on the board, a corporate surety is entitled to cast only *one* vote regardless of the fact that the corporate surety may have multiple licenses for designated agents.
- 2.03 The term of the bail bondsman representative on the Board shall be one (1) year. An annual election shall be held by the Board to determine the bail bondsman representative. The election shall be conducted in accordance with Section 1704.0535 of the Occupations Code and procedures adopted by the Board.
- 2.04 The term of the criminal defense attorney representative on the Board shall be two (2) years, unless the law requires otherwise.
- 2.05 The term of each of the other members of the Board is tied to their term of elective office.

### **ARTICLE 3**

#### **BOARD OFFICERS**

- 3.01 At the first regularly scheduled meeting of each year (or earlier if disqualified for any reason before the end of his or her term), the Board shall elect a member to serve as Chairman by a majority vote of those present. The member thus elected shall serve as Chairman of the Board until the next annual election, unless he or she is sooner disqualified. The Chairman shall preside at all meetings of the Board which are to be held at the call of the Chairman.
- 3.02 In the same manner as set out in 3.01 above, the Board shall elect a Vice-Chairman who shall preside over Board meetings in the temporary absence of the Chairman. In the event that the Chairman shall be disqualified for any reason before the end of his or her term, the Vice-Chairman shall serve as Chairman until an election can be held. The Vice-Chairman is an eligible candidate for the position of chairman at any subsequently held election.

- 3.03 In the same manner as set out in 3.01 above, the board shall choose a Secretary, who shall be responsible for supervising the preparation of agendas, preparation of minutes of meetings, maintenance of records and minutes of meetings, publication or posting of all notices, and general matters not otherwise specifically assigned by these rules but which fall within the normal scope of duties of an elected or appointed clerk or secretary of a governmental unit or agency. In the event that the Secretary becomes disqualified for any reason before the end of his or her term, a new Secretary shall be chosen in accordance with the procedures set out in 3.01 above.

#### **ARTICLE 4**

##### **BOARD MEETINGS**

- 4.01 Board meetings shall be held at least once per month and at other times at the call of the Chairman who shall be the presiding officer at all such meetings.
- 4.02 The Board shall meet at least once a month.
- 4.03 Notice of all meetings shall be posted in accordance with the provisions of the *Open Meetings Act, Chapter 551, Government Code*, as amended, and all meetings shall be conducted in accordance with the *Open Meetings Act*.
- 4.04 Four members of the Board shall constitute a quorum for the conduct of business. All action of the Board shall require the vote of a majority of the members present.
- 4.05 Unless clearly not required by the Act, all rules, regulations, and actions of the Board passed pursuant to the Act shall be posted at an appropriate place in the courthouse for a period of 10 days prior to their effective date.
- 4.06 All proceedings not governed by specific statutory provisions or rules of the Board shall be conducted in accordance with *Robert's Rules of Order*.
- 4.07 Unless otherwise provided by law, the Board may take action only on the majority vote of the Board members actually present. [§1704.056, Occupations Code].
- 4.08 The Board has all authority provided to it by Chapter 1704 of the Occupations Code.

#### **ARTICLE 5**

##### **BAIL BOND COORDINATOR**

- 5.01 Pursuant to its authority to enlist the services of such employees as are necessary to assist the Board in its functions, the Board designates the employee serving as Bail Bond

Coordinator as the person authorized and appointed by this Board to:

- (a) receive, review, and process all applications for license;
- (b) receive and monitor monthly reports from bondsmen;
- (c) compile monthly reports for the Board;
- (d) maintain a current total of each bondsmen's potential liability on outstanding bonds;
- (e) monitor each bail bondsmen's security on behalf of the Board;
- (f) receive complaints against bondsmen for referral to the Board;
- (g) track case dispositions;
- (h) prepare reports required by law to be provided to any other governmental agency;
- (i) assist and advise the Board with regard to bond forfeitures and needed action;
- (j) assist the Board or the County in any other way in order to facilitate the regulation and monitoring of the bail bond business in McLennan County;
- (k) Assist in preparation of agendas for Board meetings.

## ***ARTICLE 6***

### ***PERSONS AUTHORIZED TO ACT AS BONDSMAN***

- 6.01 No person is authorized to act as a bondsman or surety except persons licensed by the Board pursuant to the provisions of the Act, and persons licensed to practice law in the state of Texas for persons they actually represent in criminal cases.
- 6.02 Pursuant to §1704.001(2), Occupations Code, a “Bail Bond Surety” means a person who:
- (a) executes a bail bond as a surety or co-surety for another person, or
  - (b) for compensation deposits cash to ensure the appearance in court of a person accused of a crime.

## *ARTICLE 7*

### *LICENSURE OF BONDSMEN*

#### *Form of Licensee*

7.01 Only individuals and corporations are eligible to be licensed. Partnerships, limited liability companies, joint ventures and other business forms are not eligible for a license.

#### *Eligibility*

7.02 In order to be eligible for a bail bond license, an individual, including an agent for a corporate applicant, must:

- (a) be a resident of the State of Texas and the United States;
- (b) be at least 18 years of age;
- (c) possess sufficient financial resources to provide indemnity against loss on such obligations as he or she may undertake as required by the Act (unless the individual is only acting as an agent for a corporate licensee); and
- (d) have, in the two years preceding the date a license application is filed:
  - (1) been continuously employed by a person licensed under Chapter 1704 of the Occupations Code for at least one year and for not less than 30 hours per week, excluding annual leave, and had performed duties encompassing all phases of the bonding business; and
  - (2) completed 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 institution of higher education accredited by the State.
- (e) for purposes of showing compliance with Subsection (d)(1) above, an applicant must provide documentary proof of compliance in addition to his/her representation of compliance in the application. This may include, but is not necessarily limited to one or more of the following: a sworn statement of the former employer attesting to each of the requirements contained in Subsection (d)(1); payroll and/or tax documentation; letters from public officials verifying that one or more of the requirements have been met; employment contracts; employee permits or licenses from bail bond board counties that issue such credentials; license applications or employee disclosures submitted to a bail bond board showing the applicant

as an employee. The cumulative documentation must address each requirement of Subsection (d)(1). The Board or its designees will check the validity of representations of compliance made, and an applicant must cooperate in the provision of additional documentation when requested to do so.

- 7.03 No person is eligible for a license who after the effective date of the Act (August 27, 1973) committed an offense constituting a felony or misdemeanor involving moral turpitude, for which he or she was or is finally convicted.
- 7.04 No corporation is eligible to be licensed unless it is chartered or admitted to do business in the State of Texas, and is qualified to write fidelity, guaranty, and surety bonds under the *Texas Insurance Code*, as amended.
- 7.05 Any person desiring to act as a bondsman in McLennan County must submit a sworn application for license in the form prescribed and adopted for use by the Board, and provide all information required by the Act, these Rules and the Application.
- 7.06 The information to be provided to the Board by the Applicant for a bail bond license shall include, without limitation, the following:
- (1) the name, age, date of birth, and address of the applicant, and if the applicant is a surety corporation, whether chartered or admitted to do business in this state and qualified to write fidelity, guaranty, and surety bonds under the Texas Insurance Code, as amended;
  - (2) the name under which the business shall be conducted (including a bail bond business that is a corporation);
  - (3) the name of the place or places, including street address and city, wherein the business is to be conducted;
  - (4) 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 approved, or, if the applicant is an individual intending to execute non-exempt real property to the Board in trust, the value of the real property. If the applicant is an individual, a statement listing any nonexempt real estate owned by the applicant that the applicant intends to convey in trust to the Board to secure payment of any obligations incurred by the applicant in the bonding business if the license is granted. The following shall be included for each parcel listed:
    - (a) a legal description equivalent to the description required to convey the property by general warranty deed;

- (b) current statements (tax certificates) from each taxing unit with power to assess or collect taxes against the property indicating that there are no outstanding tax liens against the property and indicating the net value of the property according to the current appraisal made by a real 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, accompanied by a statement from the applicant agreeing to keep all taxes paid on the property while it remains in trust;
  - (c) a statement of the applicant that he will not further encumber the property after conveying it in trust to the County Bail Bond Board, without notifying and obtaining the permission of the board;
  - (d) an agreement to insure and keep current the insurance on any improvements on the property against any damage or destruction while the property remains in trust, in the full amount of the value claimed for the improvements;
  - (e) a statement indicating whether the applicant is married and, if so, a sworn statement from the 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; and the spouse must execute the deeds of trust to any community property placed in the security deposit required under this section; and
  - (f) a Designation of Homestead;
- (5) a statement indicating the amount of cash or cash value of any certificate of deposit or cashier's checks which the applicant intends to place on deposit with the County Treasurer to secure payment of any obligations incurred by the applicant in the bonding business if the license is granted;
- (6) a complete, sworn financial statement;
- (7) a declaration by the applicant that he will comply with this Act and the rules prescribed by the board;
- (8) for an individual applicant (or the agent of a corporation), letters of recommendation from three reputable persons who have known the applicant for a period of at least three years. If the applicant is a corporation, the letters shall be required for the person to be in charge of its business in the county. Each letter shall recommend the applicant or person who will be in charge of its business as having a reputation of honesty, truthfulness, fair dealing, and competency and shall recommend that the license be granted. If the applicant is or has been licensed in another county, the applicant shall provide:



- (a) a list of each county in which the applicant holds a license;
- (b) a statement by the applicant that, as of the date of the application, the applicant has no unpaid final judgments of forfeiture against the applicant in any such county; and
- (c) if the applicant is a corporation, a statement by the designated agent of any unpaid final judgments of forfeiture on any bond executed by the agent either as a surety or as an agent for a surety.

For purposes of these Local Rules, “Final Judgment” means a judgment that disposes of all issues and parties in the case. An Unpaid Final Judgment is a Final Judgment which remains unpaid for more than 30 days.

An Unpaid Final Judgment disclosed under 7.06 (8)(b) or (c) BARS LICENSURE unless the applicant has deposited cash or a supersedes bond with the court in the amount of the Final Judgment pending:

- (1) a ruling on a timely filed motion for new trial, or
- (2) an appeal.
- (9) a photograph of the applicant (or the agent designated by a corporation in the application), and a set of fingerprints of the applicant (or the agent designated by a corporation in the application) taken by the McLennan County Sheriff's Department or the Department of Public Safety.
- (10) if the applicant proposes to do business under an assumed name, proof showing registration of such assumed name with the County Clerk of McLennan County;
- (11) a credit history/information report done by an independent and approved credit reporting firm. A list of approved credit reporting firms will be furnished by the Bail Bond Coordinator's office. The cost of the report will be the responsibility of the applicant. (NOT APPLICABLE TO CORPORATE APPLICANTS).
- (12) for any real property to be conveyed in trust to the Board, documentation acceptable to the Board and its counsel which shows, or reasonably allows the Board to determine, the applicant's uncontestable ownership of the property, the applicant's authority to pledge the property, and that the Board's position will be first in priority and superior to all liens and encumbrances. This would include a listing and documentation of all liens or abstracts of judgment, tax liens, and debt/obligation encumbrances; a listing and documentation of all persons having an ownership interest, lease interest or reversionary right in the property; identification and documentation of the document(s) under which the applicant claims title and of

competing claims to title, if any; listing and documentation of lis pendens, if any; and proof that applicant owns unencumbered title to the property and is giving the Board a first lien position. In lieu of providing all of the foregoing information, the applicant can provide a copy of his/her deed through which he/she claims title and a title letter on the property dated as of the date the application is signed, prepared by a title company.

- (13) At the option of the applicant, an appraisal showing the valuation of the real property by an 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 the county's most recent tax appraisal valuation of the property.
  - (14) proof of hazard insurance covering the improvements located on real property proposed to be conveyed to the Board. The Board shall be made a loss payee on all such policies of insurance;
  - (15) executed deed of trust in the form required by the Board and its counsel for real property proposed to be conveyed in trust to the Board; and
  - (16) any other information required by the application form or the Act.
- 7.07 The application shall be accompanied by a certified check for \$500, made payable to the County Treasurer, as payment of the application fee.
- 7.08 Applications shall be submitted to the Bail Bond Coordinator at least thirty (30) days prior to the meeting at which the application will be considered by the Board.
- (1) At the time of submission, the Bail Bond Coordinator will email the submitted application to each member of the Board and to any other person designated by the Board to receive a copy;
  - (2) By approval of three quarters of Board members present, the Board may waive or reduce the thirty (30) day submission requirement on any application.
- 7.09 Prior to any hearing on the application, the Board or its authorized agent shall conduct necessary inquiries to determine whether the applicant possesses the financial responsibility and meets the other requirements of the Act.
- 7.10 After conducting the inquiry addressed in 7.09, and upon reasonable notice to the applicant, the Board will hold a hearing on the application. The Board may submit any questions to the applicant and the applicant's agents relevant to its ruling on the application. The applicant, who may be represented by counsel, is entitled to present oral and documentary evidence to the Board. If, after the hearing, the Board is satisfied that no grounds exist on which to refuse the application, the Board shall enter an order tentatively approving the

application subject to the application being perfected by the filing of the security deposits required of licensees by the Act. If the Board is not so satisfied, it shall enter an order refusing the license.

- 7.11 If the Board refuses the license, it shall give the applicant written notification of its refusal.
- 7.12 A corporation must file a separate application, pay a separate application fee, and provide a separate deposit for each agent the corporation designates.
- 7.13 As to valuation of real property submitted as security, at the option of the applicant, as shown by his/her application, the property shall be valued at either the amount:
- (1) indicated by an appraisal conducted by a private appraiser in accordance with Section 7.06(13) above, or
  - (2) the property tax valuation for the property.

## ***ARTICLE 8***

### ***SECURITY***

- 8.01 Upon notice from the Board that the application has been tentatively approved, the applicant shall then (no later than the 90<sup>th</sup> day after receipt of notice):
- (1) deposit with the County Treasurer cashier's check, certificate of deposit, or cash in the amount indicated by the applicant in his application, but in no event less than fifty thousand dollars (\$50,000.00), to be held in a special fund called the *Bail Security Fund*; or
  - (2) execute in trust to the Board deeds to the real property listed by the applicant as proposed security. Said property shall be valued in the amount as set forth in Section 7.06(13). In no event shall the value of the property to serve as security be less than fifty thousand dollars (\$50,000.00), the condition of the trust being that the property may be sold to satisfy any final judgment forfeitures that may be made in bonds on which the licensee is surety after such notice and upon such conditions as are required by the Code of Criminal Procedure, 1965, as amended.

A licensee cannot bond until this is done.

- 8.02 The deposit of cash, cashier's checks, and certificates of deposit, and the conveyance in trust of real property, shall be made on the forms adopted by the Board with such modifications as are required by the Board, the Bail Bond Coordinator or the Board's counsel. The deeds

of trust shall be filed by the Board with the County Clerk. The licensee shall pay the filing fees for filing deeds of trust and other required documents with the County Clerk.

- 8.03 Cashier's checks and certificates of deposit must be made payable to the County Treasurer. The County Treasurer may adopt such procedures as are necessary to assure that the security will be immediately available to satisfy bond forfeiture obligations.
- 8.04 The minimum security deposit of \$50,000.00 must be in the form of either cash (cash, cashier's check, certificate of deposit), or real property. The minimum security deposit cannot be met by the combination of the two categories of security. Additional authority to bond above the minimum can be obtained with mixed security.
- 8.05 A corporate licensee must deposit with the County Treasurer as security a cashier's check, certificate of deposit, or cash in the amount stated on the application and required by law, being currently \$50,000.00.
- 8.06 Any appraisal submitted to the Board shall indicate on its face or by supporting document that the appraiser who prepared the appraisal is a member in good standing of a nationally-recognized professional appraisers society or trade organization that has an established code of ethics, educational program, and professional certification program. If the Board has reason to question the appraiser's credentials as a member in good standing of such an organization, the Board shall have the right to require the Applicant to provide any additional information which is needed to establish that the appraiser is in fact qualified in accordance with the Act.
- (1) All appraisals of collateral shall be submitted to the Bail Bond Coordinator, who shall record the same and forward the appraisal to the County Treasurer.
  - (2) The Board designates the County Treasurer as the member vested with authority to initially approve any appraisal of collateral submitted to the Board, subject to Board approval at the next regularly held meeting
  - (3) If the County Treasurer determines that the appraisal satisfies the requirements of this section, he or she may adjust the assigned value of the collateral commensurately, and shall report such action at the next regularly held meeting for Board approval.
  - (4) The County Treasurer shall refer any appraisals not approved under 8.06(2) to the Board for consideration.
- 8.07 In accordance with Section 1704.210, a licensee may withdraw the security or a portion of the security deposited or placed in trust with the Board, and the security shall be returned to the licensee's or the licensee's heirs or assigns, if the person requesting the withdrawal is:

- (1) A licensee in good standing and the amount of the security remaining after the withdrawal is:
  - (A) at least the minimum amount required by Section 1704.160; and
  - (B) an amount sufficient to maintain the ratios required by Section 1704.203; or
- (2) A former licensee who has ceased to engage in the bonding business, or a former licensee's heir or assign, and the amount of the security remaining after the withdrawal is sufficient to:
  - (A) pay any outstanding judgments; and
  - (B) secure any unexpired obligation on a bail bond executed by the former license holder.
- (3) All submissions for withdrawal of collateral must be in writing to both the Bail Bond Coordinator and the Secretary of the Board at least ten (10) days in advance of the Board meeting in which it will be considered by the Board.
- (4) The Bail Bond Coordinator shall forward all submissions to each member of the Board at least five (5) days in advance of the Board meeting in which it will be considered by the Board

8.08 In accordance with Section 1704.204, if a license holder fails to pay a final judgment against the license holder as required, upon request by either the District or County Clerk, the Board shall order the judgment paid from the collateral held by the County Treasurer.

- (1) Any request for such action shall be submitted by the Clerk in writing to the Secretary of the Board for inclusion on the agenda for the next regularly held meeting no later than ten (10) days before such meeting.

8.09 A bail bondsman may, without having to obtain approval of the Board, but with approval from the County Treasurer, withdraw security that is in the form of a deed of trust of non-exempt real property if at the time of the withdrawal:

- (1) The current value of the non-exempt real property being withdrawn is replaced with cash or the cash value of a certificate of deposit or cashier's check of equal or greater value than the non-exempt real property that is being withdrawn; and
- (2) All final judgments of forfeiture have been paid in full.

In order to meet the requirement that all final judgments of forfeiture have been paid in full the bail bondsman must submit letters to the County Treasurer from the clerk of each court (County or District) in all counties in which the bail bondsman has any bonds that

have not been discharged (this includes bonds that were written in McLennan County for offenses committed and being prosecuted in another county or jurisdiction) verifying that there are no unpaid final judgments.

## ***ARTICLE 9***

### ***TERM OF LICENSE/RENEWAL***

- 9.01 A license issued by the Board expires 24 months after the date of its issuance, except as set forth below, and may not be renewed unless an application for renewal is filed with the Bail Bond Coordinator at least thirty (30) days before expiration in accordance with the Board's rules.
- (1) Upon the filing of a renewal application, the Bail Bond Coordinator will email the submitted application for renewal to the entire Board and to any other person designated by the Board to receive a copy no later than five (5) business days prior to the Board meeting at which such application will be considered.
  - (2) By approval of three quarters of Board members present, the Board may waive or reduce the thirty (30) day submission requirement on any application.
- 9.02 For Renewal Applications, the term of the license will differ depending on certain statutory factors. Thus:
- (1) a license that has been issued for less than eight (8) consecutive years or that has been suspended expires 24 months after the date of its issuance and will not be renewed unless an application is timely filed with the Board prior to its expiration in accordance with the Board's Rules, and
  - (2) a person who timely, and in accordance with the Board's Rules, applies for renewal of a license that has been held by the person for at least eight (8) consecutive years without having been suspended or revoked, and who complies with the requirements of the Act and these Rules, may have his license renewed for a period of 36 months from the date of expiration if the Board knows of no legal reason why the application should not be renewed and if the Board determines that the applicant has submitted an annual financial report to the Board before the anniversary date of the issuance of the applicant's license. Such a license may be renewed subsequently each 36 months in a similar manner and under the same conditions.
- 9.02 The application for renewal will be on the same form and require the provision of the same information as an application for an original license.
- 9.03 The procedure for consideration of the renewal application and action thereon shall be the same as for original applications. If the applicant's current license has not been suspended or revoked, if the renewal application complies with the requirements of the Act and the

Board Rules, and if the Board knows of no legal reason why the license should not be renewed, and subject to the other requirements of the Act and these Rules, the license may be renewed for the period applicable as discussed above in 9.01.

- 9.04 The application for renewal shall be accompanied by a renewal fee of \$500.00.
- 9.05 Each license, when issued, shall show on the face of the license the date of expiration and the license number. It is the responsibility of the licensee to timely file for renewal of his or her license.
- 9.06 Each subsequent license shall have the same license number as the original license.

## ***ARTICLE 10***

### ***NATURE OF LICENSE***

- 10.01 A bail bond license is a right and permit personal to the licensee, and may not be transferred, sold or assigned.
- 10.02 When a licensee dies, bonding authority immediately ceases to exist, and no more bonds can be written against that license.

## ***ARTICLE 11***

### ***EMPLOYEES OF BONDSMEN/LICENSURE OF CORPORATE AGENTS***

- 11.01 Each licensee may have as many employees as he or she desires.
- 11.02 Employees may perform meaningful duties in the licensee's bail bonding business, but may not sign bail bonds.
- 11.03 Subject to the rules and regulations of the Sheriff, employees may meet and negotiate with members of the public for the purpose of selling bonds, receive money as a fee or money or property as collateral for bonds, present bonds to the Sheriff's Department for approval, interview or take information from persons who are in jail or have been released from jail pursuant to a bond provided by the licensee, and perform other such related duties.
- 11.04 The licensee shall submit an initial list of his or her employees along with his or her original application or renewal application for license, along with all information for such employees requested by the application form or requested in writing by the Board or the Sheriff. A licensee shall submit an amended list each time he or she gains or loses employees.

11.05 No person may serve as an employee of a bail bondsmen who exercises meaningful duties in the bail bond business if that employee would be ineligible for a bail bond license (for other than the ground of lack of sufficient evidence of financial responsibility). For example, an employee may not have a disqualifying conviction for a felony, or a crime involving moral turpitude.

Payment to a person with a disqualifying conviction in return for information as to where a defendant may be found or leads relating thereto will not be considered as “employing” the person (hereinafter “informant”) for purposes of this rule, subject to the following conditions and restrictions:

- Such payments must be on a per lead or similar basis and not on any retainer, periodic fixed payment, hourly, or other regular basis-with no other remuneration or benefits;
- Informants may not be allowed space at the licensee’s office;
- Informants may NOT participate in any phase of the licensee’s bail bonding business. The sole role of the informant must be the provision of information, not tracking or apprehending the defendant.

11.06 No agent's licenses will be issued to employees/agents of individual licensees. Licensure shall be restricted to the individual surety who shall be responsible for making the bonds. Licenses will be issued to corporations for their designated agents.

11.07 A corporation may have as many licensed agents operating on its behalf in the County as it desires. Any corporation which acts as a surety in McLennan County shall, before executing any bail bond, first file in the office of the County Clerk of McLennan County a Power of Attorney designating and authorizing the named agent or agents of such corporation to execute such bail bonds by such agent. The Power of Attorney shall be a valid and binding obligation of the corporation. The corporation must obtain a separate license for each agent operating on its behalf in the County. A corporate surety which wishes to replace one of its designated licensed agents with a new, unlicensed agent may not substitute the new agent's name on the former agent's license. The Board will not substitute the name of a person not yet licensed for the name of an unlicensed person, and the corporation is required to obtain a separate license for the proposed new agent.

11.08 For an individual license, only the licensee can execute bonds, not employees or agents. For corporate licenses, only a licensed agent may execute bonds.

## ***ARTICLE 12***

### ***RECORDS AND REPORTS***

12.01 A bondsman licensed by the Board must maintain a record of each bond on which the



bondsman appears as surety in McLennan County for the purpose of periodic reports to the Board and to comply with the Act. The records shall include the following information for each bond executed and enforced:

- (a) the style and number of the cause in which the bond is given and the court in which it is executed;
- (b) the name of the defendant released on bond;
- (c) the amount of the bail set in the case;
- (d) the amount and type of security held by the bondsman, together with a statement as to whether the security was taken for payment of a bail bond fee or for assurance of the principal's appearance in court and the conditions under which the security will be returned. No security shall be held for both payment of a bail bond fee and assurance of the principal's appearance in court that is in excess of the particular risk involved.

12.02 The bondsman must also maintain:

- (a) an updated statement showing all of licensees' unpaid final judgments;
- (b) a statement showing all judgments nisi taken against the licensee during the reporting month and showing a cumulative of all total judgments nisi to date.

12.03 All licensees shall file monthly reports with the Bail Bond Coordinator upon forms prescribed by the Board containing the information set out above and such other information as the Board or Coordinator deem necessary. Such report must be filed with the Coordinator on or before the 14th day of the month by 4 p.m. Failure of any licensee to file the required reports may result in suspension of the bondsman's license in accordance with the procedures for suspension of license provided in these rules.

### ***ARTICLE 13***

#### ***SUSPENSION OR REVOCATION OF LICENSE***

13.01 The Board may, on its own motion, and will, on receipt of a sworn complaint providing reasonable cause to believe that a violation of the Act has occurred, or on the request of a court, investigate the actions and records relating to such complaint against any bondsman it has licensed.

After receipt of a sworn complaint, the complaint will be forwarded to the Board's legal

counsel, who shall review the complaint and any supporting information to determine if the complaint provides reasonable cause to believe that a violation of the Act has occurred. No later than ten (10) days after receipt of the complaint, the Board's legal counsel shall make his recommendation to the Board in writing as to whether the complaint provides reasonable cause to believe that a violation of the Act has occurred. At the next meeting of the Board at which the recommendation may be legally considered, the Board:

- (a) shall adopt its legal counsel's recommendation that reasonable cause exists, and set a date for a hearing on the matter with notice to the licensee;
- (b) may adopt the legal counsel's recommendation that reasonable cause does not exist, and decline to take further action on the complaint; or
- (c) may reject its legal counsel's recommendation that reasonable cause does not exist, and proceed on the complaint with notice to the licensee as required by law.

*13.02* The Board may, after notice and hearing, suspend or revoke a license for any of the grounds listed in the Act, as amended.

*13.03* Notice of a hearing to suspend or revoke a license shall be given by certified mail addressed to the last known address of the licensee at least eleven (11) days prior to the date set for the hearing. The notice shall specify the charges of violation of the Act made against the licensee, and no other charges shall be made at the hearing pursuant to the notice. The notice must include a copy of any written complaints on which the hearing will be based. The hearing shall afford the licensee an opportunity to be heard, to present witnesses in his behalf, and to question witnesses against him. The licensee shall be afforded the opportunity to present documentary evidence supporting his position, and may be represented by counsel. A record of the hearing shall be made, and shall be made available to the licensee on his or her request subject to the licensee paying the reasonable cost of transcription. If the Act, as amended, provides a different procedure, that procedure will be followed.

*13.04* If the licensee fails to maintain the security deposit at the proper ratio required by the Act, the Board or its designee shall immediately suspend the license while the violation continues. No prior notice or a hearing is necessary. Once the proper ratio is regained, the suspension shall immediately be lifted.

*13.05* The Board shall revoke the license of a bondsman with prior notice and hearing if the licensee fails to pay any final judgment connected with the licensee's bonding business within thirty (30) days and there is not sufficient property held as security to satisfy the final judgment. The Board or its authorized agent shall immediately notify the Sheriff if a surety fails to pay a final judgment. The Sheriff will no accept any further bonds from the surety until the judgment is paid. No prior notice or hearing is required for the suspension of bonding for failure to pay a final judgment.

13.06 The Board shall have the power to administer oaths, examine witnesses, and compel the production of pertinent books, accounts, records, documents, and testimony by the licensee at its hearings.

## **ARTICLE 14**

### **BOND-TO-SECURITY RATIO**

14.01 Under no circumstance may a bondsman execute bail bonds which in the aggregate exceed ten times the value of the security on deposit or in trust with the Board pursuant to the Act. Furthermore:

- (a) if a bondsman has been licensed for fewer than two (2) years, or has had a license suspended or revoked, the bondsman may execute bail bonds only up to the aggregate limit of ten (10) times the value of the cashier's check(s), certificate(s) of deposit and/or cash held in trust by the Board for that bondsman's bond obligations plus five (5) times the value of the real property deeded in trust to the Board as security for that bondsman's bond obligations,
- (b) if a bondsman has been licensed for at least two (2) years and fewer than four (4) years, the bondsman may execute bail bonds only up to the aggregate limit of ten (10) times the value of the cashier's check(s), certificate(s) of deposit, and/or cash held by the Board in trust for that bondsman's bond obligations plus six (6) times the value of the real property deeded in trust to the Board as security for that bondsman's bond obligations,
- (c) if a bondsman has been licensed for at least four (4) years and fewer than six (6) years and the bondsman has not had a license under the Act suspended or revoked, the bondsman may execute bail bonds up to an aggregate limit of ten (10) times the value of cashier's check(s), certificate(s) of deposit, and/or cash held by the Board in trust for that bondsman's bond obligations plus eight (8) times the value of real property security deeded to the Board in trust for that bondsman's bond obligations, and
- (d) if a bondsman has been licensed for at least six (6) years and has not had a license under the Act suspended or revoked, the bondsman may execute bail bonds not to exceed an aggregate limit of ten (10) times the value of cashier's check(s), certificate(s) of deposit, and/or cash held by the Board in trust for that bondsman's bond obligations, plus ten (10) times the value of real property deeded in trust to the Board as security for that bondsman's bond obligations.

The Bail Bond Coordinator shall maintain a current total of each bondsman's total potential liability on bonds in force, and no further bonds may be written by or accepted from the bondsman when the applicable limit has been reached.

- 14.02 When a bondsman's total liability on judgments *nisi* is two times the same amount as he has on deposit as security, no further bonds may be written until the bondsman posts additional security as required by the Act.
- 14.03 A bondsman whose license is effective, may, at any time, by posting additional security in accordance with procedures prescribed by the Act and by these Rules, increase the bondsman's limit.
- 14.04 The provisions of 14.01 above are not applicable to a corporate surety. The certificate of authority to do business in this state issued to the surety by the State Department of Insurance is conclusive evidence of the corporate surety's solvency.
- 14.05 The Board shall promptly notify the Texas Department of Insurance if a corporation fails to pay a judgment of forfeiture in accordance with §1707.204, Occupations Code, which provides:
- (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 by Subsection (a), the judgment shall be paid from the security deposited or executed by the license holder under Section 1704.160.
- 14.06 If a final judgment of forfeiture is paid from the security placed by the licensee with the Board, the licensee must place additional security with the Board in an amount sufficient to meet his/her security requirements under the Act.

## **ARTICLE 15**

### **LIST OF LICENSED BAIL BONDSMEN**

15.01 The Secretary of the Board shall furnish and post in each court in the county having jurisdiction of criminal cases and with each local official responsible for the detention of prisoners in the county current lists of the bondsmen and their agents licensed and approved in the county, and will notify immediately each court and local official when a bondsman's license is suspended or revoked or an agent's authority is rescinded.

## ***ARTICLE 16***

### ***BUSINESS NAMES***

16.01 No licensee shall operate under or use in the bail bonding business an assumed name which is deceptively similar to the name of another licensee.

16.02 No licensee shall operate under or use in the bail bonding business an assumed name which is not in compliance with Chapter 36 of the Texas Business and Commerce Code.

16.03 No licensee shall operate under or use as an assumed name in the bail bonding business the name of a person who is disqualified from bail bond licensure or who has had his or her bail bond license revoked.

## ***ARTICLE 17***

### ***EXPERIENCE AND EDUCATION REQUIREMENTS***

17.01 An applicant for a bail bond license (including a renewal) must:

- (a) have, in the two years preceding the date a license application is filed:
  - (1) been continuously employed by a person licensed under Chapter 1704 of the Occupations Code for at least one year and for not less than 30 hours per week, excluding annual leave, and had performed duties encompassing all phases of the bonding business; and
  - (2) completed 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 institution of higher education accredited by the State.
- (b) This requirement does not apply to the issuance of an original license if the individual who applies is applying 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.

## **ARTICLE 18**

### **FRAUDULENT OR DECEPTIVE ADVERTISING OR SOLICITATION**

- 18.01 No licensee shall advertise or solicit in a manner that is fraudulent, deceptive or harassing.
- 18.02 No license holder shall solicit peace officers, jailers, or court personnel to suggest the licensee to any potential principal.
- 18.03 Licensees must comply with Section 1704.109(b) of the Occupations Code regarding unsolicited contact.

## **ARTICLE 19**

### **ATTORNEYS**

- 19.01 An attorney licensed in this State is exempt from the licensure requirement of the Act if he or she represents the principal in the criminal case for which the bond is given. The requirements for the filing of a notice of appearance set out in Section 1704.163 of the Occupations Code are incorporated herein. An attorney is NOT released from liability on a bond solely because the person is later replaced as the attorney of record in the criminal case.
- 19.02 The Board has limited supervisory power with regard to attorneys making bail bonds.
- 19.03 In accord with the Act, no attorney making a bail bond under the exemption provided by the Act shall engage in conduct involved with that practice that would subject a bail bond surety to license suspension or revocation.
- 19.04 If the Board determines that a person has violated the prohibition of the Act set out in Section 19.03 above, or has made bonds for defendants he or she does not represent in the criminal case, the Board may order that the person may not execute a bail bond or act as a surety until the person has remedied the violation. The same notice and hearing procedures provided for a license suspension or revocation shall be followed prior to a suspension of bonding privileges.

## **ARTICLE 20**

### **CORPORATE AGENT RESTRICTIONS OR LIMITATIONS**

20.01 An agent for a corporation designated on a power of attorney must be the same agent as designated on the application. A corporation may not transfer a license between agents.

20.02 A corporation may limit the authority of a designated agent by specifying the limitation in the power of attorney filed with the County Clerk and the Board, but not otherwise.

## **ARTICLE 21**

### **OFFICE LOCATION**

21.01 A license holder shall maintain an office in the County.

21.02 If a license holder moves its/his/her office to a new office location, the license holder must notify the Board of the new location with seven (7) days.

## **ARTICLE 22**

### **ARREST OF PRINCIPAL**

22.01 No bondsman, or agent, employee or contractor of a bondsman, shall arrest or attempt to arrest a principal on a bond except where specifically authorized by law.

22.02 No bondsman shall hire, employ or contract with a person for the purpose of that person executing an arrest warrant for a principal or principals on a bond or bonds unless that person is authorized to do so under Article 17.19 of the *Code of Criminal Procedure*, which allows a warrant issued under Article 17.19 of the *Code of Criminal Procedure* to be executed by a peace officer, or a security officer or private investigator licensed by the State of Texas.

22.03 If a bondsman arrests a person without authority of law, this shall be a ground for suspension or revocation of his license.

22.04 If an agent, employee or contractor of a bondman arrests a principal without authority of law at the bondsman's request, this shall be a ground for suspension or revocation of the bondsman's license.

22.05 If a bondman hires, employs or contracts with a person to execute an arrest warrant who is not authorized by law to do so, and that person arrests or attempts to arrest a principal, this shall be a ground for suspension or revocation of the bondsman's license. It is the bondman's responsibility to assure that those persons whom he hires, employs or contracts with are licensed security officers or private investigators, whose licenses are in good standing with the State of Texas. The bondsman must obtain from the person verification of his licensure as a security officer or private investigator before assigning

him to execute a warrant, and must retain documentation in his files of the person's licensure. The person's licensure must be reverified by the bondsman periodically, and at least monthly, while the person is employed by the bondsman. Where the person is only used occasionally, and is not an employee, then the bondsman must reverify his licensure before each day of assignment. The bondsman must provide the Board with proof of licensure of its agents, employees or contractors executing an arrest warrant or warrants upon demand therefore by the Board or its authorized representative. Failure to provide such information within ten (10) days of a request therefore shall be a ground for suspension of the bondsman's license until he complies with the request.

- 22.06 If a bondsman is charged with committing a violation of this Article, the matter may be brought before the Board, which, after notice and a hearing as provided in these Rules and Chapter 1704 of the *Occupations Code*, shall make a determination as to what action, if any, should be taken on the bondsman's license.

Nothing herein shall be interpreted to contradict the Act, and the Board shall have all powers granted to it by the Act notwithstanding these Rules. These Rules supersede, repeal and replace all prior rules of the Board. These Amended Local Rules shall take effect 10 days after they are posted on the County Bulletin Board at the County Courthouse.