

# **RULES AND REGULATIONS OF THE TARRANT COUNTY BAIL BOND BOARD**

Pursuant to the authority granted in Chapter 1704 of the Texas Occupations Code, the following rules and regulations are adopted to regulate the bail bond business in Tarrant County, Texas.

The Tarrant County Bail Bond Board, hereinafter the Board, will hold regular meetings on the first Wednesday of each month, at 1:00 p.m., in the courtroom of the Tarrant County Commissioners Court unless otherwise specified by the Chairman of the Board. Notices of the meeting will be posted on the bulletin board of the first floor of the Tarrant County Justice Center one week in advance of each meeting. All proceedings not governed by specific statutory provisions or by the Rules and Regulations, hereinafter the Rules, shall be conducted in accordance with Robert's Rules of Order, and the presiding officer shall serve *ex officio* as parliamentarian. The Board shall annually elect members to the offices of Chairman and Vice-Chairman.

Current as of August 16, 2020

1. A bondsman shall not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation as it relates to his bail bond business.

### **Applications / Renewals**

2. (a) In discharging its responsibility for reviewing applications and renewals for licenses, the approach to be taken by the Board is generally to require the applicant or licensee seeking renewal to have at least \$50,000 unencumbered minimum collateral deposit.

(b) To satisfy the “documentary evidence” requirement of Texas Occupation Code § 1704.152 (a) (4), an individual applicant for a bail bondsman’s license or for approval as a corporate bail bond agent must submit an affidavit that he or she has been continuously employed or self-employed by a person licensed under Chapter 1704 of the Occupations Code, for at least one year of the two years preceding the date of application, excluding annual leave, for not less than 30 hours per week, and that he or she has performed duties that encompass all phases of the bonding business during this period. An individual applicant employed by another licensee shall also submit an affidavit containing the same material from the licensee or its corporate agent.

3. License renewal requests and \$500 fees must be submitted for Board approval at the meeting 60 days prior to the expiration of the license. Renewal applicants under the Texas Occupations Code § 1704.162(e), must file an annual financial report 30 days prior to the anniversary date of the issuance of the applicant’s license for review by the Board.

All applications for new licenses or renewals shall be approved or disapproved no later than 180 days after submission to the Secretary of the Bail Bond Board. This means that an applicant shall have no more than a maximum of 180 days from initial submission to provide supplemental or amended information before the Board approves or rejects his application. Once an application has been rejected, a subsequent application shall require payment of the appropriate application fee.

4. When a bondsman renews his license and resubmits real property for collateral, the value may be determined by submitting the following to the Board: a complete appraisal as described in the Texas Occupations Code § 1704.155 (2)(B)

5(a) Whenever a bondsman is required to submit a financial statement, whether annually, as part of an original application for license, or pursuant to a renewal application, or for any other reason, the financial statement must be current as of a date which is within thirty days of the date of its submission to the board’s secretary for the board’s consideration. Such a financial statement should indicate on its face that it is “current as of [date]”.

(b) Bondsmen who meet the statutory criteria for periodic renewal of their licenses every thirty-six months must submit an appraisal for each piece of real property that the bondsmen wishes to pledge as collateral for bail bonds during the period for which he is requesting a

license renewal. This appraisal shall provide the net value of the property 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. A “current” appraisal, as the term is used herein, means an appraisal which is current as of a date that is within ninety days of its date of submission to the board’s secretary for the board’s consideration.

### **Office Procedures**

6. A bondsman shall not charge a fee for making a bond in an amount in excess of the amount of the bond.

7. A receipt shall be given to the principal or other person on behalf of the principal who gives money or property to a bondsman as collateral to secure either the payment of the bond fee or performance on the bond. If property is given, the receipt shall describe said property, including serial numbers, VIN’s, etc. The receipt shall state whether the collateral is held to secure the fee, the performance, or both.

If the collateral is to be forfeited, the person giving said collateral shall be given ten (10) days notice of said intended forfeiture. The notice shall be sent by certified mail to the last known address. The property may be sold for its fair market value and the defendant’s account credited for said amount. The defendant or party giving the collateral shall then be notified of the account balance and any surplus remitted to the person posting said collateral. A bondsman or attorney may hold collateral in connection with a bail bond for only two purposes: securing payment of the bond fee and securing the client’s appearances in court. Collateral may not be held or forfeited for the violation of any other contractual provision between the surety and the client.

8(a) A bondsman shall maintain a file on each principal for whom he writes a bond. The file shall contain the information required under Chapter 1704 of the Texas Occupations Code. Especially § 1704.202 and § 1704.305 as well as any information required to be maintained by the local Rules herein.

A “file” means a physical file or one electronic file that is accessible upon demand at all times in a bondsman’s designated office. A “file” as used in this rule does not include data or information that is stored elsewhere, such as within computer programs or applications.

(b) Within 30 days after initial licensing as a bondsman in Tarrant County or within 30 days after the renewal of any license to act as a bondsman issued by the Tarrant County Bail Bond Board, a licensee must submit a written designation to the secretary of the Bail Bond Board providing a Tarrant County address at which his bail bond business records shall be kept. These records shall remain accessible at that location to a representative of the Bail Bond

Board in accordance with the laws of this state and the local rules of this board, unless and until the licensee submits an amended designation, in the same manner, stating a different address within the county.

(c) For purposes of Texas Occupations Code § 1704.213, an “office” shall mean a designated street address at which a license holder currently maintains and stores all records related to his or her bail bond business which are required to be kept by statute or local rules and at which a licensee shall be amenable to service of process in connection with his or her bail bond surety business.

9. (a) A receipt shall be given to the principal or person paying a bond fee. The receipt must state whether any money or property provided to the bondsman is intended to pay a bond fee or to be held as collateral. If property is given to a bondsman, a description of such property shall be included on the receipt, to include serial numbers, if any. A copy of such receipt shall be kept in the file required by Rule No. 8(a).

(b) If a bondsman collects money in order to pass any portion of that money on to anyone else providing professional service in connection with any person’s arrest, release from jail, or criminal charges, the bondsman must provide a receipt for these funds to the person providing the money. The receipt must state the amount of the payment received, the purpose of the payment, and the name of the service provider who will receive the funds or any portion of the funds. If funds are collected in order to refer the bond to another bail bond surety in any jurisdiction, the name of the bail bond surety who will make the bond must be entered on the receipt, along with a notation stating that the second bail bond surety is intended to be the actual surety on the bail bond. A copy of the receipt must be retained in the file required by Rule No. 8 (a) A bondsman’s file should also reflect the method, amount, and date of disbursement from the bondsman. Nothing in this rule should be construed to inhibit or prevent fee splitting between sureties which is otherwise allowed by law.

(c) “A bondsman shall not collect legal fees to pass on to a lawyer. This prohibition applies even to situations in which the bondsman passes 100% of the amount collected to the lawyer.”

(d) Whenever a bondsman holds a corporate agent’s license and an individual bail bond license which operate and/or advertise under the same trade name or “business name”, that bondsman/corporate agent must disclose on each receipt whether the receipt relates to a bond on his corporate license or a bond on his individual license.

10. The bondsman has the responsibility of notifying the principal of all court settings. A record of such notice shall be kept in the file required by Rule No. 8(a). Such file shall be kept for a period of one year from the date the bond is discharged.

A court setting notification must be a written copy of the notice, or a log listing the court date at issue, who made personal or phone contact, how the contact was made (e.g. left a message, spoke to live person), phone number called (if any) and date and time of contact.

11. A bondsman shall not accept as a fee anything of value, for obtaining a writ of habeas corpus on behalf of any person incarcerated in any jail, nor may a bondsman accept any form of referral fee from anyone in connection with any writ of habeas corpus which is obtained to release any inmate from any jail.

The normal rule prohibiting referrals to attorneys {Texas Occupation Code Sec. 1704-304(a)} applies to referrals in connection with writs of habeas corpus.

### **Advertising**

12. (a) A licensed bondsman (other than a corporation) may operate under only one “business name”. This “business name” may be an assumed name or the bondsman’s “real” name (individual name).
- (b) A corporate surety may also operate under an assumed name or under its “real name” (the name of the corporation), as in (a) above. Instead of these alternatives, a corporate surety may choose to operate under the name of any of its licensed corporate agent (but not under the names of anyone licensed only as a Bail Bond Agent). Each corporate agent licensed to operate for a corporate surety may operate under only one business name. No more than one corporate agent per corporate surety may operate using the corporation name as its “business name”. A corporate surety may operate under only one name for each corporate agent.
- (c) Each corporate agent and each licensed bondsman (other than a corporation) must designate a “business name” that he or she intends to use whenever a license is obtained or renewed, or whenever he or she intends to change a “business name” between renewals. The Board may refuse permission to use any name that is confusing or misleading.
- (d) A licensed bondsman must advertise under the proper “business name,” as that term is defined above. However, all advertisements must also contain any corporate name (if different than “business name”), any corporate agent’s name along with a designation naming the agent as such, the individual name of any non-corporate bondsman, and the license number which the bondsman operates.” Advertisement” includes billboard, telephone directory ad, newspaper or magazine ad, handbill, business card, and any electronic or printed material used to solicit business, *including an internet listing or internet page over which the bondsman has control. Any internet advertising or internet listing over which the bondsman has control or input must also list the proper business name. An internet listing stating that the bondsman operates in Tarrant*

*County must not place the phrase “Tarrant County” in front of the business name. When a bondsman creates an internet listing or web page, this rule is satisfied if any web page or listing links to a page containing all the required information listed above.*

(e) All licensed sureties must be in compliance with Rule 12 (d) from the date of any new license granted after the passage of Rule 12 (d) or from the date of their first license renewals following the Board’s approval of Rule 12 (d). Additionally, all advertising materials ordered or created after the Board’s approval of Rule 12 (d) must comply with Rule 12 (d).

(f) Bail Bond Agents may not advertise bail bond services in their own names but only in the name of the business for whom they are agents. They may not, on personal business cards or otherwise, advertise using a phone number that does not belong to a licensed bondsman.

13. No soliciting of bonds is permitted inside jail buildings, or at entrances thereto, by either licensed bondsmen or their agents. “Soliciting” as used herein means person to person petitions or invitations addressed to particular individuals to enter into a bail bond related transaction.

Because solicitation of bonds is limited by this rule and by other provisions of the Bail Bond Act, licensed sureties shall be prohibited from paying their agents additional compensation for successfully negotiating the acquisition of new or additional bond business.

14. (a) No billboard or other type of advertising will be placed in a location where its content is discernibly visible by an inmate from inside a jail building as bail bond advertising.

(b) Vehicles displaying bail bond advertising should not be parked on public property which is visible from any entrance to any jail building except for so long as it is necessary for agents or employees using the vehicles to transact bail bond related business within the jail building.

(c) No electronic device disseminating any form of bail bond advertising may be carried or placed within any jail, courthouse, government building, or on or within any fixture or personal property located on any public real property surrounding such a building such as a sidewalk or government right of way.

15. If a bondsman purchases a bail bond business and intends to assume the seller’s trade name, or telephone number(s) for any time period whatsoever, the agreement for such sale must be presented to the board and approved in order for the purchaser to receive any exemption

from Local Rule 12. Any purchaser assuming a trade name or telephone number without receiving prior approval from the board shall be considered in violation of Local Rule 12.

### **Collateral**

16. a. No collateral will be added to a bondsman's maximum bond amount unless it is a minimum of \$1,000.

b. If cash or certificate(s) of deposit are offered as collateral, they must remain in trust for at least one year. After the expiration of one year, certificates of deposit pledged as collateral may be released and substituted without Board approval by the secretary of the Board, provided that the substituted certificates of deposit are of equal value.

c. If real estate is offered as collateral, the real estate may be released within ninety days provided that cash or certificate(s) of deposit in equal or greater amount are offered in lieu of the real estate. Cash or certificate(s) of deposit offered in place of real estate must remain in trust for one year. Any change in collateral under this rule must be accompanied by a current financial statement.

d. If real estate is offered as collateral in lieu of cash or certificate(s) of deposit, or in lieu of other real estate already pledged, or for any real estate offered as collateral, the bondsman must present the following to the Board for approval:

1. "property description when real estate is used as surety" affidavit,
2. current appraisal, or certified value of the property according to the current tax appraisal rolls, *and*
3. current financial statement. If the bondsman is licensed under §1704.162(e) of the Texas Occupations Code and an annual financial report has been filed within the last 12 months, no additional financial statement will be required under this Rule.

e. When a surety or prospective surety provides real property to collateralize future bail bonds, he or she must elect to value the property via one of two methods: certified property tax appraisal value, or according to an appraisal from a qualified appraiser meeting the standards set forth in the Bail Bond Act. Once this election is made, the surety cannot change the method for valuing the real property collateral until he or she next renews his or her license.

17. On or before February 15 of each year, bondsmen with real estate pledged as collateral for making bail bonds will provide a copy of paid tax receipts for each piece of real estate so pledged. These receipts must show proof of taxes paid in full by no later than the immediately previous January 31, and must show such payment for any county, city, school district and other *ad valorem* taxes which are due for the previous calendar year. Failure to comply with this provision will result in the applicable property being immediately deducted from posted collateral as of February 16 of the applicable year. If a bondsman provides proof that taxes

were paid in full by January 31, but provides that proof after February 15, any collateral previously deducted by the Board's Secretary shall be immediately restored to the bondsman's account without the necessity of further Board action.

If, however, a bondsman fails to pay taxes in full by January 31 but makes a later payment in full, he must make a request to the Board for reinstatement of collateral. Upon written request from a bondsman received ten (10) days before a scheduled monthly meeting of the Board, a request to reinstate real estate which has been deducted from posted collateral for non-payment or late payment of property taxes as stated above shall be placed on the agenda for the Board's consideration. If the bondsman provides proof at such a meeting that all property taxes and penalties have been fully paid as of that time, the real estate shall be immediately restored to a bondsman's posted collateral.

18. (a) So long as it is pledged as collateral for making bail bonds, property shall not be further encumbered nor shall any interest in the property be conveyed to any other legal entity whatsoever without the express consent of the Tarrant County Bail Bond Board. This rule applies equally to all forms of collateral, whether real or personal property.

(b) When a certificate of deposit is pledged as collateral for making bail bonds, the bondsman pledging the CD shall execute a document permitting the relevant financial institution to confirm the amount, current encumbrance and assignment status of the certificate to any representative of the Tarrant County Auditor, Tarrant County Sheriff's Department, or Tarrant County Bail Bond Board.

(c) Bondsmen shall answer all inquiries from Tarrant County agents or employees concerning property pledged as collateral. Such an inquiry, made in writing to the latest address provided by the bondsman to the County, shall be answered in full within thirty days after the inquiry is deposited in the United States Mail via Certified Mail, Return Receipt Requested.

(d) If the value, encumbrance status or assignment status of any collateral remains unconfirmed after an inquiry as described above in (c), the previously established value of the relevant collateral may be immediately deducted from the amount of collateral used to determine the maximum amount of bail bonds a bondsman is allowed to maintain at any given time. Such a deduction shall in no way preclude further discipline against the bondsman who fails to meet his or her obligations under Rule 18 (c).

(e) If a bondsman has pledged a CD as collateral, and the financial institution issuing the CD is sold, merges with another financial institution, changes name, or otherwise undergoes a change in form, the bondsman is responsible to notify the Bail Bond Board Secretary within 60 days of the change, and to either provide written verification that any assignment of the CD remains valid or to provide a new assignment form reflecting the relevant change to the financial institution.



(f) A bondsman must provide updated information about his or her then-pledged collateral as part of his or her application or annual financial statement.

(g) When a CD is pledged as collateral, a bondsman must provide documentation of the length or term of the CD. A CD will be counted as collateral only until the expiration of its term, unless and until the bondsman provides documentation as to the terms of any renewal.

### **Bond Forfeitures**

19. (a) A bondsman (or attorney making bonds pursuant to Texas Occupations Code §1704.163) must satisfy all requirements of *Texas Occupations Code* §1704.204. Such a bail bond surety will have bond posting privileges suspended pursuant to *Texas Occupations Code* §1704.2535 upon notification to the Sheriff's Office from the District Clerk, County Clerk, or District Attorney's Office, as an authorized representative of the bail bond board, that the person has failed to pay a bond forfeiture judgment not later than the 31<sup>st</sup> day after final judgment in the trial court, deposit cash in the amount of a judgment while the judgment is on appeal, or file a supersedeas bond in the amount of a bond forfeiture judgment which is on appeal.

As used in this rule, "final judgment in the trial court" means a judgment pursuant to *Texas Code of Criminal Procedure* art. 22.14 which is no longer subject to a pending or potential motion for new trial.

Whenever a bondsman or attorney's bond posting privileges have been suspended pursuant to §1704.2535 for thirty straight days, the Secretary of the Board shall generate a complaint before the Board so that the Board may consider whether to take disciplinary action against the bondsman or attorney.

(b) The Tarrant County Bail Bond Board will suspend bond posting privileges of a bondsman (or attorney making bonds pursuant to *Texas Occupations Code* §1704.263) pursuant to Texas Occupations Code §1704.2535 upon notification from a bail bond board or Sheriff of another Texas county that the bondsman or attorney has failed to pay a final bond forfeiture judgment in the other Texas county as required by *Texas Occupations Code* §1704.204.

Such suspension shall occur only after the matter has been placed upon the agenda of the Tarrant County Bail Bond Board, and after the bondsman or attorney has been given notice of possible suspension and an opportunity to be heard on the matter at a meeting of the Tarrant County Bail Bond Board.

If the Tarrant County Bail Bond Board finds that the bondsman or attorney has failed to pay a final bond forfeiture judgment in the other Texas County as required by *Texas Occupations Code* §1704.204, it shall suspend the bondsman or attorney's privilege to post bonds in Tarrant County until such time that the bondsman or attorney has complied with §1704.204 in the affected Texas county.

(c) A bail bond surety (whether bondsman or attorney) must pay all reasonable and necessary expenses incurred by any peace officers in re-arresting his or her clients in the event that the clients fail to appear before a court or magistrate as specified in their bail bonds.

When a surety receives a bill for such re-arrest costs from any sheriff or peace officer, such bill must be paid within thirty days of the date indicated on the letter unless the surety provides proof to the Tarrant County Sheriff that he or she is contesting the expenses in court or that a bail bond forfeiture case in connection with the expenses has not yet been finally adjudicated.

In the event that there has been no final adjudication of a bail bond forfeiture case in connection with the expenses, or in the event that the expenses are otherwise contested in court, the surety must pay any such expenses approved by the court within thirty days of a final adjudication concerning the expenses.

If a surety fails to pay re-arrest expenses in accordance with this rule, he or she will have bond posting privileges suspended in accordance with *Texas Occupations Code* §1704.2535 by the Tarrant County Sheriff until such time as payments are current in compliance with this rule.

20. A bail bond surety must pay reasonable and necessary expenses incurred in returning the accused into the custody of the sheriff of the county in which a prosecution is pending under *Texas Code of Criminal Procedure* Art. 17.16.

When a surety receives a bill for such re-arrest costs from any sheriff or peace officer, such bill must be paid within thirty days of the date indicated on the letter unless the surety provides proof to the Sheriff and the Secretary of the Bail Bond Board within that same time period that he or she is contesting the expenses before the Tarrant County Bail Bond Board.

If a surety fails to pay re-arrest expenses in accordance with this rule and also fails to give timely notice to the Sheriff and Bail Bond Board Secretary that he is contesting the expenses before the Tarrant County Bail Bond Board, he or she will be suspended from the active bond list by the Tarrant County Sheriff until such time as payments are current in compliance with this rule.

When expenses are contested in front of the Bail Bond Board, the Board's decision shall be final, and any expenses ruled payable by the Board must be paid within thirty days of the Board's decision. When such timely payment is not made by a surety, the surety will be suspended from the active bond list by the Tarrant County Sheriff until such time as payment has been made in compliance with this rule.

### **Agents**

21. When a corporate bail bond agent executes a Tarrant County bond on behalf of corporate surety, he is responsible for all the company's obligations to see that notice of future court settings is properly conveyed to the corporation's client, and he must obey all the other rules and regulations of this board and of the Texas Occupations Code Chapter 1704 in dealing with this client.

- a. Bail Bond Agent shall mean any person hired by a bondsman who performs either of the following duties:
1. meets and negotiates with members of the public for the purpose of selling bail bonds;
  2. presents bonds to the Sheriff's Department or *another* law enforcement officer or magistrate for approval.

b. Removed on June 6, 2017 with the amendment of Rule 21

c. The Board will not grant a license or renewal as a Bail Bond Agent to any person who, within the preceding ten years, has been convicted of a misdemeanor involving moral turpitude or of a felony.

In order to facilitate inquiry about this criminal record, an applicant for a Bail Bond Agent's license shall provide one set of fingerprints with his or her application. After one set has been provided, no additional set will be required for further renewals of the license.

An application for a Bail Bond Agent's license must be personally signed by the bondsman wishing to employ the applicant as a Bail Bond Agent. A signature stamp will not suffice, nor will anyone signing on the bondsman's behalf, even with explicit permission of the bondsman.

d. No bondsman may employ a person as either a Bail Bond Agent who is not licensed to perform those functions in Tarrant County by the Tarrant County Bail Bond Board.

e. Each agent's license, including renewals, shall be valid for twelve months after approval, unless suspended or revoked by the Board. The Board shall revoke an agent's license upon written request by the Bondsman who is the principal on that license.

f. Each bondsman may have as many employees licensed as Bail Bond Agents as he or she desires.

g. In order to qualify for a Bail Bond Agent's license, an applicant must show that he meets all requirements of the Act and these Rules other than the net worth and collateral necessary for applicants seeking a bail bondsman's license. If an applicant appears to have previously violated the Act or these Rules or to have engaged in conduct unbecoming a bondsman, the Board will not license the applicant as a Bail Bond Agent for any Tarrant County bondsman.

Bail Bond Agents shall comply with the Act, and the Rules and Regulations of the Tarrant County Bail Bond Board. Upon showing that a Bail Bond Agent has violated either the Act, or the Rules and Regulations, or conduct unbecoming a bondsman, the license(s) for such agent may be suspended or revoked for each bondsman represented by such agent.

h. Each bondsman is responsible for the actions taken by those Bail Bond Agents hired by the bondsman. Upon showing that a Bail Bond Agent has violated the Act or the Rules and Regulations while representing one or more specific bondsman, the license of the bondsman may be suspended or revoked.

i. An applicant who has been denied a Bail Bond Agent's license may not reapply for a period of six months from the date of the denial of his application for license.

j. No former bondsman who still has a connected phone number which was previously advertised or published in connection with his or her former bail bond business may act or be licensed as a Bail Bond Agent under another bail bond surety. Any former bondsman who wishes to act as a Bail Bond Agent under another bail bond surety must disconnect (without forwarding notice to callers) all phone numbers which were formerly published or advertised in connection with the bondsman's former license as a bail bond surety.

k. Individuals who hold licenses as "Class A" or "Class B" Agents shall be considered to be "Bail Bond Agents" under this rule without payment of an additional fee or any need to renew their license until their "Class A" or "Class B" license expire, at which they may apply to renew their status as "Bail Bond Agent"

22. The chairman of the bail bond board, in his or her discretion, may authorize a bondsman to make temporary use of an "emergency" Bail Bond Agent, when the bondsman encounters unusual circumstances depriving him or her of the services of his or her normal agents. Such an authorization shall be effective for only 72 hours.

This emergency authorization may occur no more than once in a calendar month.

Before using the temporary agent, the Bondsman must submit a written memo to the Sheriff's office documenting the permission received for a particular individual to act as temporary agent, and the particular time period for which permission has been granted.

A temporary agent under these rules must have a current agent's license in good standing with one or more Tarrant County Bondsmen to become a temporary agent for any additional bondsman.

### **Election of Bondsman / Board Member**

23. No later than November 12 of each year, ballots will be mailed to each licensed bondsman by the Board. At the regular December Board meeting, the ballots will be counted by the Board members according to the instructions sent with the ballot to the licensed bondsmen. The duly elected representative of the licensed bondsmen will serve from January through December of each year.

24. At its regular meeting each December, the Board shall hold an election to select a member of the criminal defense bar to sit on the Board, or to name a designee to sit on the Board, for a one-year term beginning on January 1 of the following year.

The Board shall notify the Tarrant County Criminal Defense Lawyers Association and the Tarrant County Bar Association concerning the time and date of each such election and shall post separate notice of the election at each location at which its meeting agenda is posted in compliance with the Texas Open Meetings Act.

The Board shall accept written nominations for candidacy which have been previously presented to its secretary. It shall also accept verbal nominations at the December meeting. Either form of nomination must be made by someone eligible to vote in the election. Candidates may nominate themselves. Any interested voter who cannot attend the election meeting in person may submit a ballot in advance to the Secretary of the Board, and that ballot shall be considered both a nomination and a vote; provided, however, that such a nomination and vote shall be subject to eligibility challenges by those present at the December meeting

Voters and candidates must belong to the following group: they must be members of the State Bar of Texas whose licenses to practice law are in "active" status; they must have their principal offices in Tarrant County, Texas, and they must not be statutorily ineligible from representing criminal defendants.

Anyone who presents himself as an eligible nominator, voter, or candidate shall be accepted in this capacity unless someone at the meeting challenges the eligibility of the individual. The board shall inquire of those present at the December meeting concerning whether anyone present wishes to challenge the eligibility of any participant in the election.

The board shall adjudicate any such challenges. A challenger need not be personally eligible to vote in the election in order to challenge the eligibility of a nominator, candidate, or voter.

Election shall be held by secret ballot among those personally present to vote at the December meeting. Advance ballots submitted to the Board's Secretary shall also be counted, unless successfully challenged as described above. These ballots submitted in advance of the meeting, however, must not be secret ballots in order that voter eligibility may be determined at the meeting if and when a proper challenge to a voter's eligibility is raised. The candidate receiving the greatest number of votes from eligible voters present at the meeting shall be the winner. Only in the event of a tie shall a runoff be held. A tie resulting from a two-way race or runoff shall be decided by lot in a manner to be determined by the presiding officer of the Board.

### **Complaints / Hearings**

25. If a judicial determination is made that a bondsman licensed by the Board has surrendered a principal without reasonable cause, the Board, upon receiving information that such determination was made, shall then take whatever action it deems appropriate, including revocation or suspension of the license of the bondsman.

26. If a complaint against a bondsman is submitted to the Board, it will first be screened to determine if it provides reasonable cause to believe that a violation of Chapter 1704 of the Texas Occupations Code or these local rules has occurred. All complaints received at least seven days before a regularly scheduled Board meeting shall be placed on the agenda for that meeting so that the Board can make this determination. A representative of the District Attorney's Office shall receive the complaint and make a recommendation to the Board on the issue of whether reasonable cause has been stated. If the Board decides that a complaint does not provide reasonable cause as described above, the complainant and the bondsman made the subject of the complaint shall be so notified in writing by the Secretary of the Board.

If the Board determines that a complaint does state reasonable cause as described above, it shall direct such investigation into the complaint as it deems necessary. This may include a testimonial hearing before the Board, but such a hearing shall not be required in every case. The complainant and the bondsman named in the complaint shall be entitled to at least ten (10) calendar days written notice of a decision to hold a testimonial hearing before the Board convenes the hearing. This notice period shall commence on the date when the Board or its representative deposits written notice in the United States Mail by Certified Mail, Return Receipt Requested, addressed to the last business address provided to the Board by the bondsman. The hearing may be held no earlier than the eleventh day, counting the notice's mailing day as day one. A bondsman shall also be entitled to the same notice and time to answer if the Board chooses to investigate a complaint through other means, such as a request for affidavits, a request to produce evidence, or a request that an agent of the Board interview the bondsman or his agents. Provided, however, that nothing in this Rule shall operate to

abrogate or diminish the Board's statutory right to inspect on demand, whether in person or via a representative, the records a bondsman must keep pursuant to the Texas Occupations Code § 1704.202

Failure on the part of a bondsman to testify at such a hearing, to answer any questions at the hearing, or to timely provide any other response or evidence requested by the Board pursuant to this Rule shall be considered in itself to be a violation of these Rules.

Once the Board completes its investigation, it shall take such action as it deems appropriate. Both the complainant and the bondsman who was the subject of the complaint shall be sent written notice of the Board's decision.

27. a. The Board may, on its own motion, or upon a showing of good cause supported by an affidavit, grant a continuance to a bondsman and/or agent when a hearing is set to investigate the actions and records relating to any complaint filed against any bondsman and/or agent. A continuance can be given on a month to month basis, but it shall not exceed more than three (3) months.

b. If a motion for continuance is granted, and if the continued hearing is set beyond the expiration date of a bondsman's and/or agent's license, the license may be temporarily extended beyond the expiration date of the license, thereby allowing the bondsman and/or agent to sell bail bonds until the final disposition of the continued hearing. Whenever a continuance is granted, the bondsman will remain liable for any and all obligations incurred on any bonds made during the original license or any extension thereof.

28. The Chairman or Vice-Chairman is authorized to act on behalf of the Board to conduct inspection of bail bond records pursuant to the Texas Occupations Code § Chapter 1704.202(d). Either the Chairman or the Vice-Chairman may appoint agents to conduct actual inspection of records.

29. A license may be suspended after a hearing before the Board if real property pledged as collateral to the Board is subsequently encumbered.

30. When weed liens encumber real estate conveyed in trust to the Board to secure bonding business obligations, the Board may grant a month to month continuance of the bondsman's license. The Board may require as escrow a cash deposit in an amount sufficient to pay all or a portion of the weed liens. If, during such continuance, the license of the bondsman expires, the Board may temporarily extend the license and the bondsman may continue as stated in Rule 27.b

The bondsman or his attorney must appear before the Board each month during such continuance and state the following:

Whether the weed liens will be paid and give an approximate date.

Whether a settlement or law suit is expected on the weed liens.

The status of payment, settlement, or lawsuit, and anything else requested by the Board.

### **SUPERVISION OF “ATTORNEY EXCEPTION”**

31. When the Bail Bond Board convenes an evidentiary hearing as to whether a licensed surety, licensed agent, or attorney has violated a Bail Bond Board Rule or any aspect of Chapter 1704 of the Texas Occupations Code, the hearing shall commence with the Board’s attorney reciting the nature of the charge and the name of the sworn complainant initiating the inquiry.

32. Next, the Board shall swear in all anticipated witnesses and issue any rulings as to whether the witnesses shall be asked to leave the room when other witnesses are giving testimony. The subject of a complaint shall in every case be allowed to remain present for all testimony.

33. All witnesses, licensees, and attorneys appearing before the Bail Bond Board shall have the right to counsel before the Board. This means that anyone accused of a violation of a Bail Bond Board Rule or any aspect of Chapter 1704 of the Texas Occupations Code shall have the right to address the Board on his own behalf or through counsel before the Board undertakes deliberation of its action in the matter. The time and manner of this address shall be subject to the reasonable control of the Chairman or other presiding Board member. Ordinarily, the subject of a complaint shall have the right to make a brief oral statement to the Board before evidence is taken. This statement may be made either by the subject, or his/her lawyer, but not both.

34. Receipt of evidence during a Bail Bond Board hearing shall be according to the following procedure:

- (1) Witnesses shall be allowed to commence testimony in a narrative or through questioning from counsel.
- (2) The Bail Bond Board’s attorney shall next be allowed to question each witness.
- (3) After the Board’s attorney concludes questioning, the subject of a complaint shall be allowed to cross-examine each witness on his/her own behalf or through counsel.
- (4) Finally, the Board members themselves will ask their questions of witnesses.
- (5) Any further questioning shall continue in the order stated above.



- (6) The conduct of all hearings, and any variation from the procedure above, is always subject to the control of the Board Chairman or other presiding member.

35. The Board may interrupt proceedings at any time to consult with its attorney about any matter. Such a consultation may be in open or closed session in the discretion of the Board.

36. Similarly, a witness, including one who is the subject of a complaint, may request a break at any time to consult with counsel. However, counsel for a witness, including one who is the subject of a complaint, shall not be allowed to stand at the podium with his or her client during the client's testimony. During testimony, a lawyer must not make argument to the Board, but may assert any applicable legal privileges on behalf of his or her client. Lawyers representing parties who are not the subject of the complaint being heard shall not have the right to cross-examine witnesses.

37. Since the legislature has delegated to the Board the responsibility to determine whether a lawyer making bonds under the "attorney exception" (*Texas Occupations Code Section 1704.163*) "has engaged[ed] in conduct involved with that practice that would subject a bail bond surety to license suspension or revocation", the Board will follow the same procedures for handling complaints against attorneys who are making bonds under the "attorney exception" that it follows for processing complaints against its licensees.

38. When the Board determines that an attorney has engaged in conduct prohibited by Texas Occupations Code 1704.163, it will also determine, in an individual case, what will constitute a remediation of the misconduct. Unless and until the conduct is remedied to the Board's satisfaction, it shall order the Sheriff of Tarrant County to suspend the attorney's power to make bonds under the "attorney exception" pursuant to Section 1704.163 of the Texas Occupations Code. Additionally, or as an alternative remedy, the Board may refer attorney misconduct to the State Bar of Texas when appropriate.

39. Any individual or corporation seeking a new license or the renewal of a license from the Board must appear before the Board prepared to answer questions about the application whenever consideration of the matter has been placed on the Board's agenda, except for Bail Bond Agents whose licenses are up for renewal and whose licenses have already been previously renewed once. The Board will not grant a license or renewal in the absence of such an appearance, except as described in the previous sentence.

A corporation may appear through any designated agent.

Any surety who is the subject of a complaint must bring all agents or employees connected to the subject matter of the complaint to any hearing concerning the complaint. He or she should also bring all agents or employees who were physically present in the bond office whenever the events described in the complaint occurred.

Whenever the Board desires the presence of a Bail Bond Agent at any hearing, the Board shall send written notice of its desire to the agent at least eleven days prior to the hearing at the last address the agent has provided to the Board.

“License” as used herein includes a corporate surety’s license, a license to act as the local agent of a corporate surety, an individual’s license to be a bail bond surety, or a Bail Bond Agent’s license.

### **“Corporate surety” disclosure rule**

40. Whenever a licensee executes or will execute a bail bond as an agent for a corporate surety, he must inform the person paying him for the bond in a written notice that the bond will be made as an obligation of the corporate surety. The written notice shall name the particular corporate surety and shall be kept in the licensee’s file in the same manner as the receipt for payment.

41. No one who is statutorily ineligible for employment in a bail bond business (someone who has been convicted of a felony or crime involving moral turpitude within the last ten years) may participate in the operation of the business in any way. “Operation” includes but is not limited to answering business phones or phone numbers, training, coordinating business with, or supervising employees or agents of the business, negotiating referrals to or from other bonding companies with or without fee splitting, supervising in any manner existing clients of the business, making and enforcing business policies, quoting prices, negotiating business with customers or prospective customers, handling business finances, delivering bonds to jails, settling or arranging for the settlement of bond forfeiture cases, filing documents with courts or court clerks or any other phase of the business’s in-office or out-of office operations. It is the responsibility of each licensed surety to ensure that such ineligible persons do not participate in the operation of his or her business. A bondsman’s purported ignorance of such an ineligible person’s activities in connection with the bondsman’s business shall not exonerate the bondsman from responsibility for ensuring compliance with this rule.

42. During any month in which a bondsman makes any business-related rental or purchase payment to a person who is statutorily ineligible for employment in a bail bond business, the bondsman must file a sworn report of such payments with the Tarrant County Bail Bond Board within thirty days of the last date of such month. The report must state all payments made to the ineligible person and describe the specific date and number of the financial instrument conveying the payment. A copy of the financial instrument (such as a check or money order) shall be attached to the report. No such payments may be made in cash. The report must contain a statement under oath certifying that the payments listed are the only bail bond business related payments made during the applicable month to the person who is statutorily ineligible for employment in a bail bond business.

By way of example, but not limitation this rule would apply to the purchase of phone numbers or trade name from someone who has been convicted of a felony or crime involving moral turpitude within the last ten years, or to the lease of bail bond business premises from such a person.

43. When a bondsman or an agent or an attorney operating under the attorney exception takes money or property in exchange for making a bond, he or she must provide the following notice in English and Spanish to the person paying the money or providing the property:

***NOTICE REGARDING ALIENS WHO  
MAKE BOND***

*An alien incarcerated for criminal charges in the United States may be subject to detention and deportation by the United States government. Detention and deportation are particularly likely for aliens who are in the United States illegally.*

*Bonds for criminal charges **have no effect** on detention and deportation proceedings or possibilities. An alien who makes bond on all state criminal charges **may, in some cases, never obtain release from jail before disposing of his or her criminal case.** Furthermore, he or she may be subject to deportation at any time.*

*An alien making a bail bond and his or her bondsman may remain liable on the bond when the alien fails to appear for court due to deportation from the United States.*

*Finally, it should be noted that anyone who encourages or aids an alien to enter or reenter the United States illegally may be subject to criminal prosecution, as may anyone who encourages or aids an alien to intentionally or knowingly fail to appear for court proceedings as promised in a bail bond.*

***NOTIFICACIÓN REFERENTE A PERSONAS INDOCUMENTADAS QUE UTILIZAN  
FIANZAS***

*Una persona indocumentada que haya sido encarcelada por cargos criminales dentro de los Estados Unidos puede ser detenida y deportada por el gobierno federal. La detención y deportación son muy probables para aquellas personas que estén de manera ilegal en los Estados Unidos.*

*Las fianzas para cargos criminales **no tienen efecto alguno** en los procedimientos o posibilidades de detención y/o deportación. Una persona indocumentada que utiliza una fianza en cualquier cargo criminal **podría, en algunos casos, no ser puesto en libertad antes de que se completen los procedimientos de su caso, e incluso, podría ser deportada en cualquier momento.***

*Una persona indocumentada que utiliza una fianza y su afianzador o afianzadora, pueden ser hechos responsables de cubrir la fianza cuando la persona indocumentada no se presente ante la corte debido a que haya sido deportada.*

*Finalmente, se debe aclarar que cualquier persona que ayuda o incentiva a que una persona indocumentada ingrese o reingrese de manera ilegal a los Estados Unidos, puede ser perseguida criminalmente. De la misma manera, también se puede perseguir criminalmente a cualquier persona que incentiva o ayuda a que una persona indocumentada, con conocimiento o de manera intencional, no se presente a corte de acuerdo a lo prometido en su fianza.*

This notice must be signed by the recipient and by the bondsman or his agent, who must note the date and time when the notice is provided. A copy of the notice with the required signatures and documentation as to time the notice is provided must be kept in the bondsman's file. The notice should be provided at the same time a receipt is given for any money or property received. Only one notice per bond is required. However, if arrangements for multiple bonds on the same person are being made simultaneously, there need be only one alien notice provided per arrested person.

44. To implement the legislature's policy that attorneys making bonds pursuant to the attorney exemption must represent the bail bond principal in any criminal case arising out of their bonds at the time those bonds are executed, each bond executed by an attorney as surety under the "Attorney Exemption" found in *Texas Occupations Code* §1704.163 must include the following language over the bond principal's signature: *"I desire that the attorney whose signature appears as my bail bond surety on this document represent me in the criminal case or cases connected to this bond."*