

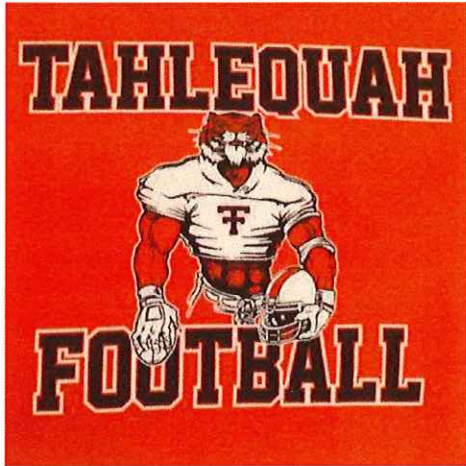
OKLAHOMA INSURANCE DEPARTMENT



2017 Legislative & Rule Changes

Bail Bonds

About Me



1985-2003



2008-2011



Cara, Abigail, me



2003-2008



2011 - present

Topics

- **Legislative Process Overview**
- **Legislative Changes**
 - SB 525
- **Rule Changes**
 - OAC 365:25-5-3, 4, 8, and 49
- **General Information**
- **Questions**

Legislative Process

- **Legislative/Rule ideas – constant process**
 - Mostly from OID staff, but also from bondsmen, attorneys, and legislators
- **Summer/Fall: Listing of ideas**
- **Fall: Discussions with OBA leadership & lobbyist**
- **November: Meeting of OID decision makers and OBA leadership**
- **October-December: Drafting of language**
- **Dialogue continues throughout legislative session**

SB 525 – OID Omnibus



Representative Michael Rogers
Republican – Broken Arrow
District 98



Senator James Leewright
Republican – Bristow
District 12

Effective November 1, 2017

SB 525 – Applications

- **Bondsman applicants required to submit 2 sets of fingerprints (current practice)**
- **Only required to submit 1 photograph**

SB 525 – Application Validity

- *Old Law:* Applications for a license were valid for 6 months after submission
- *New Law:* Applications are valid only for 3 months after submission
- Once submitted, the applicant needs to finish the process.

SB 525 – Prohibited Persons or Classes

- Certain persons or classes of persons are prohibited from performing the acts of a bail bondsman or directly or indirectly receiving the benefit from the execution of a bail bond.
 - Felons, police officers, judges, revoked bondsmen, etc. (§ 1315(A)(1))
- *New Law:* “No person shall be permitted to maintain an office for conducting a bail bond business where persons disqualified . . . Are present, except as necessary for such persons to obtain a personal bail bond.”
- If someone is in a class listed in § 1315(A)(1), they are not allowed on the premises of your bail bond business unless they’re a client.

SB 525 – Marriage/Cohabitation

- What exactly does “shall not directly or indirectly receive any benefits from the execution of any bail bond” mean?
- *New law:* “the **marriage or cohabitation** of a bail bond licensee or license applicant with a person disqualified . . . **does not, as a matter of fact, constitute the receipt of benefits from the execution of a bail bond.** In such circumstances, the receipt of benefits from the execution of a bail bond shall be subject to a factual determination by the Commissioner.”
- Just because you are married to or living with a person in one of the prohibited classes does not mean you have violated the law. Each factual situation is different.

SB 525 – Address Change

- *Current Law:* A bail bondsman must register with the sheriff and court clerk in the county in which they reside or office.
- *New Law:* Must also provide notice to the court clerk of any change in address within 5 business days after a change.
- *Old Law:* Sheriff had to provide list of bail bondsmen to incarcerated individual upon request.
- *New Law:* Sheriff must post the list conspicuously near all telephones used by prisoners.
- *New Law:* The list must be updated and distributed to law enforcement by the court clerk at least monthly, provided there has been a change to the list.

SB 525 – Exonerations

- *New Law*: In addition to the reasons already in law, a bail bond will be exonerated by operation of law if:
 - “the warrant issued by the court has not been entered into an active warrant database available to law enforcement within 5 business days after its issued date” or
 - “the defendant has been arrested on new charges in the same jurisdiction in which the bondsman or insurer has posted the appearance bond or bonds for the defendant, and the defendant has been subsequently released on his or her own personal recognizance.”

SB 525 – Exonerations

Example:

- You write a bond for John Doe for his arrest for battery and he's out awaiting his next hearing.
- John then gets arrested for drug possession in the same jurisdiction.
- The judge, knowing that you have a bond on John for his battery charge, releases John on an OR bond for the drug charge.
- **Your original bond for the battery charge is exonerated by operation of law.**

Rules

- OAC 365:25-5-3. Education requirements
 - An applicant for a license must pass the examination and apply for the license within 1 year after taking the prelicensing education course.
- OAC 365:25-5-4. Application for course approval
 - Aligns the fee for the OBA for CE course approval to the statute (59 O.S. § 1308.1)
- OAC 365:25-5-8. Extensions of time
 - The Commissioner can grant an extension of time for someone to complete the prelicensing education and examination process for up to 12 months (previous allowance was 6 months)

Rules

- OAC 365:25-5-49. Property bondsman requirements
 - Sets out the documentation required for a property bondsman to submit for the Department to calculate the market value of the property:
 - A certified copy of the Warranty Deed,
 - An attorney's Title Opinion, which shall have been prepared within the previous sixty (60) days prior to application,
 - A written statement from the county assessor stating the property's assessed value and showing the legal description of said property, and
 - A written statement from any lien holder stating the current payoff amount on each lien. If there are no liens on the property, an applicant shall submit an Affidavit stating there are no liens.

General Information

- 59 O.S. § 1310(A)(21): “. . . the bondsman shall be permitted to accept collateral security or other indemnity from the principal which shall be returned immediately upon final termination of liability on the bond and upon satisfaction of all terms, conditions, and obligations contained within the indemnity agreement; provided, however, **a bondsman shall not refuse to return collateral or other indemnity because of nonpayment of premium.** Collateral security or other indemnity required by the bondsman shall be reasonable in relation to the amount of the bond;”

General Information

- Minimum fine for violations of the Bail Bond Code is \$250
- Respond to the OID Bail Bond Division
- Read your email. Every bondsman is required by law to keep an updated email address, and the Department uses it to get information to you. There is no excuse.
- Review your reports before submitting them to OID. Simple, easily identifiable mistakes cause most of the required amended reports
- Submitting an insufficient funds EFT to the Department is a violation.

General Information

Notice of return to custody

Following a forfeiture, if the defendant has been returned to custody as defined in 59 O.S. § 1332(C)(4), the bondsman shall file notice with the court clerk of the county where the forfeiture occurred by the ninety-first day after receipt of the order and judgment of forfeiture, certifying the defendant was returned to custody by the ninetieth day after receipt of the order and judgment of forfeiture. Failure to provide notice prior to the ninety-first day shall be a violation of 59 O.S. § 1310(A)(2).

Questions

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