

OKLAHOMA INSURANCE DEPARTMENT



*Legislative, Administrative Code, and O.I.D.
Changes 2013*

ANTI-FRAUD



2013 Legislative Update

SB 549 – Racketeering

Insurance Crimes

(Amends 22 O.S. 2011, Section 1402.10)

- Adds the following to the racketeering statutes:
 - Exploitation of the elderly,
 - Computer crimes involving money,
 - Receiving proceeds of a crime,
 - An insurer filing a false statement with the Commissioner,
 - Workers compensation fraud.

INSURANCE PRODUCERS



*Legislative, Administrative Code, and O.I.D.
Changes 2013*

HB 1792 – Uninsured Motorists

Removing Car Tags

(New Law 47 O.S. 7-621)

- Allows law enforcement to remove the tag from a vehicle driving without state mandated minimum liability coverage.
- Tag will be replaced with a temporary tag.
- Sheriff's office will hold the tag until the owner:
 - buys insurance,
 - pays all fines and fees.

HB 1792 – Uninsured Motorists

Temporary Insurance

(New Law 47 O.S. 7-621)

- The car is automatically covered with a statewide temporary insurance policy for minimum liability coverage from the time the tag is removed until the time the owner buys insurance or a maximum of working 10 days.
- The owner pays for the temporary coverage at the Sheriff's office when they retrieve the tag.
- The temporary insurance is bid each year for the whole state on an OMES RFP:

EFFECTIVE NOVEMBER 1

SB 696 – Electronic Policies

Property and Casualty

(New Law 36 O.S. 2011, Section 712)

- Carrier may electronically deliver policies and endorsements to the insured rather than on paper.
- The policies may be posted on the company website.
- Each policy declaration page must clearly identify the policy and endorsement forms purchased by the insured.

SB 692 – Interlocal Agreements

Reporting Requirement

(Amends 36 O.S. 2011, Section 607.1.B)

- Requires an interlocal cooperative entity to file an audited financial statement with the Insurance Commissioner.
- Must be filed within 180 days of the close of the interlocal's fiscal year.
- Requires GAAP accounting.

EFFECTIVE IMMEDIATELY

SB 692 – Interlocal Agreements

Report Contents

(Amends 36 O.S. 2011, Section 607.1.B)

- CPA's report.
- Balance sheet with assets, liabilities and equity.
- Statement of operations.
- Statement of cash flows.
- Footnotes to financial statements.

EFFECTIVE IMMEDIATELY

SB 692 – Interlocal Agreements

Penalty

(Amends 36 O.S. 2011, Section 607.1.C-D)

- Allows a 30 day deadline extension when approved by the Commissioner.
- Fine of \$500 per day.
- Report is subject to the Open Records Act.

Removing the Exemption

(Amends 70 O.S. 2011, Section 5-117.A.8.f)

- Requires unregulated interlocals to file the report.

EFFECTIVE IMMEDIATELY

SB 1000 – Limited Lines

Fees

(Amends Title 36 O.S. 2011, Section 1435.23)

- Clarifies that the non-resident limited lines producer license fee is \$100.

SB 1000 – Life & Health

Policy Information

(Amends Title 36 O.S. 2011, Section 1435.41)

- After a life or accident and health agent's appointment is terminated, the insured may sign a form requesting the insurer provide to the agent information regarding the policy.
- OID will have a form available on its website.

HB 1512 – Omnibus

Broker's Bond

(Amends 36 O.S. 2011, Section 1464.C)

- Eliminates the \$5,000 bond requirement for Life Accident and Health Brokers.

Wellness Programs

(Amends 36 O.S. 2011, Section 6515.D & 40 O.S. 500.B)

- Allows an employer to incentivize a wellness program for employees and allows the small group insurance carrier to consider the wellness plan when rating the group.

SB 765 – Oral Cancer Drugs

Co-pays

(New Law 36 O.S. 6060.9.a)

- Oral cancer drugs must be covered at the same co-pay and out of pocket costs as intravenous drugs unless the total out of pocket costs is \$100 or less.

HB 1672 – Drug Formulary Changes

Deletions

(New Law 36 O.S. 6850.1)

- When a drug is deleted from the formulary, the plan must notify enrollees presently taking the drug.

HB 2226 – Prescription Drugs

Prior Authorization

(New Law 63 O.S. 313.A)

- Prescription drug prior authorizations forms may not exceed 3 pages.

Morning After Pill

(New Law 59 O.S. 369) ***Pending Court Ruling***

- Morning after pill requires a prescription for women under the age of 17.

SB 975 – Dental Plans

Appeals

(Amends 36 O.S. 2011, Section 7301)

- Requires all dental plans to establish an appeal procedure for claims denied on the basis of medical necessity.
- The appeal must be reviewed by a licensed dentist.
- The reviewer's contact information must be provided.

HB 1108 - Captives

Location and Coverages

(Amends 36 O.S. 2011, Section 6470.3)

- Allows captives to write workers' comp coverage.
- Removes the requirement that a captive hold an annual board meeting in Oklahoma.
- Removes the requirement that the principal place of business be in Oklahoma but must maintain a place of business in Oklahoma.

EFFECTIVE NOVEMBER 1

HB 1108 - Captives

Applications

(Amends 36 O.S. 2011, Section 6470.3)

- To form a captive file with the Commissioner:
 - a certified copy of its organizational documents,
 - a statement under oath showing its financial condition,
 - a feasibility study,
 - a business plan,
 - and any other statements, information or documents required by the Commissioner.
- Creates a provisional license for up to 60 days.
 - If the Commissioner deems that it is in the public interest a provisional license may be issued.
 - Must file an application meets all requirements.

EFFECTIVE NOVEMBER 1

HB 1108 - Captives

Financing

(Amends 36 O.S. 2011, Section 6470.6-14)

- Capital and surplus requirements for a pure captive.
 - \$150,000 initial contribution.
 - \$100,000 additional contribution within 12 months.
- No longer requires a captive to be a stock company.
- No longer requires the incorporators to be residents of Oklahoma.
- A captive insurance company shall use GAAP accounting.
- Adds failure to pay taxes or fees as a reason to suspend or revoke a captive's license.

EFFECTIVE NOVEMBER 1

HB 1108 - Captives

Taxes and Ownership

(Amends 36 O.S. 2011, Section 6470.15-19)

- Allows a captive to own an interest in another captive.
- Restricts reinsurance on risk ceded by other insurers to only domestic companies.
- Lowers captive premium tax rate to 0.2% of direct premium, with an annual maximum tax of \$100,000.
- Lowers captive premium tax to 0.1% on assumed reinsurance premium.
- Caps the premium tax at \$50,000 for a captive insurance company with more than 25 Oklahoma employees.

EFFECTIVE NOVEMBER 1

HB 1108 - Captives

Participation

(Amends 36 O.S. 2011, Section 6470.30-31)

- A risk retention group may participate in a sponsored captive.
- Allows a participant to insure its own risk and the risk of participating affiliates through a sponsored captive.

SCR 26 – Insurance Consumer Bill of Rights

Property and Casualty

- Protections against penalties by insurance companies when insurance companies use the consumer's credit information to issue or renew insurance policies and calculate rates under the Use of Credit Information in Personal Insurance Act;
- Written notice of acceptance or denial of an insurance application within forty-five (45) business days pursuant to Section 1241 of Title 36 of the Oklahoma Statutes;
- Premium refund if the insured cancels the policy before the end of the policy term as defined in the insurance policy pursuant to Section 1241.1 of Title 36 of the Oklahoma Statutes;

EFFECTIVE IMMEDIATELY

SCR 26 – Insurance Consumer Bill of Rights

Property and Casualty

- Inquire about making a claim or request information about a possible claim from the insurer without penalty from the insurer pursuant to Section 1241.2 of Title 36 of the Oklahoma Statutes;
- Acknowledgment of receipt of a claim to the policy by the insurer within thirty (30) days pursuant to Section 1250.6 of Title 36 of the Oklahoma Statutes;
- Notification of acceptance or denial of a claim, or if further investigation is necessary, forty-five (45) days after the proof of loss is filed pursuant to Section 1250.7 of Title 36 of the Oklahoma Statutes;

EFFECTIVE IMMEDIATELY

SCR 26 – Insurance Consumer Bill of Rights

Property and Casualty

- Notification at least ten (10) days prior to the date of cancellation and notification thirty (30) days prior to the date of nonrenewal (effective July 14) of the insurance policy pursuant to Section 365:15-1-14 of the Oklahoma Administrative Code;

All Insurance

- A written communication from the insurer within thirty (30) days upon receipt of the communication pursuant to subsection C of Section 1250.4 of Title 36 of the Oklahoma Statutes;
- An inquiry by the Insurance Commissioner within thirty (30) days from the date of the inquiry when the request is on behalf of the consumer pursuant to subsection B of Section 1250.4 of Title 36 of the Oklahoma Statutes;

EFFECTIVE IMMEDIATELY

SCR 26 – Insurance Consumer Bill of Rights

Homeowners

- To file a first claim without penalty when the personal residential insurance coverage has been in effect more than forty-five (45) days pursuant to Section 3639.1 of Title 36 of the Oklahoma Statutes;
- Not to be assessed a surcharge for weather-related claims pursuant to Section 365:15-7-26 of the Oklahoma Administrative Code;
- To the services provided by the Market Assistance Association when experiencing difficulty obtaining homeowner's insurance pursuant to Section 6412 of Title 36 of the Oklahoma Statutes;

SCR 26 – Insurance Consumer Bill of Rights

Autos or Motorcycles

- To participate in an accident prevention course in order to receive discounts for premium charges pursuant to Section 924.1 of Title 36 of the Oklahoma Statutes;
- To protections against penalties by the insurance company when involved in a collision, provided the insured Oklahoma consumer is not at fault pursuant to subsection A of Section 941 of Title 36 of the Oklahoma Statutes;
- To protections against penalties from the current insurance carrier for having previously retained lower liability limits with a previous insurer, without actuarial justification pursuant to subsection B of Section 941 of Title 36 of the Oklahoma Statutes;

SCR 26 – Insurance Consumer Bill of Rights

Autos or Motorcycles

- To protections against the consideration of traffic records more than three (3) years old by the insurance company when the insurance company is issuing, cancelling or renewing insurance policies and calculating rates pursuant to Section 942 of Title 36 of the Oklahoma Statutes;
- To protections against the consideration of traffic charges by the insurance company when the insurance company is issuing, cancelling or renewing insurance policies and calculating rates, provided the insured was acquitted of the charge, was arrested and no charges were filed, or was arrested and the charges were dismissed pursuant to Section 943 of Title 36 of the Oklahoma Statutes.

EFFECTIVE IMMEDIATELY



Producers Continuing Education

Non Resident Reporting

(Amends 365:25-3-1(c)(2))

- Removes the CE reporting requirement for non-resident producers since CE is considered reciprocal with the resident state.

Credit Carry Over

(Amends 365:25-3-1(d)(3))

- Clarifies that all CE is carried forward as general hours.

EFFECTIVE IMMEDIATELY



Producers Continuing Education

Instructor's Credit

(Amends 365:25-3-1(d)(5))

- To receive CE credit for teaching a course an instructor needs to include his/her name and license number on the roster.

Prerequisite for Renewal or Reinstatement

(Amends 365:25-3-1(d)(6))

- Changes the CE requirement time frame from "previous year(s)" to "renewal cycle."
- Also, reflect the Department's simplified electronic filing procedure for CE transcripts.

EFFECTIVE IMMEDIATELY



Producers Continuing Education

24 Credits Required

(Amends 365:25-3-1(g))

- Updates two references to reflect the 24 credit requirement.

Medicare Advantage CE

(Amends 365:25-3-18(b))

- Removes the 4 hour requirement for Medicare Advantage and Medicare Prescription Drug training.



Continuing Education Providers

Provider Filings

(Amends 365:25-3-1(e))

- Clarifies the \$200 CE Provider fee be paid at the time of application.
- Adds email address to the required provider information.

Course Content

(Amends 365:25-3-1(f)(7))

- Allows non- "company specific" content in areas that were previously prohibited.



Continuing Education Providers

Student List

(Amends 365:25-3-1(f)(9))

- The list of students completing the course must be electronically reported to the department.

CE Committee

(Amends 365:25-1-1(l))

- Reflects statute establishing the CE Advisory Committee.
 - Commissioner appoints members
 - Serve without pay
 - Meet at least quarterly

INSURANCE COMPANIES



*Legislative, Administrative Code, and O.I.D.
Changes 2013*

HB 1512 – Omnibus

Model Holding Company Act Confidentiality

(Amends Title 36 O.S. 2011, Section 1657.1)

- Replaces 1970's confidentiality model language with current NAIC model language.
- Provides greater protection of corporate data provided to the Commissioner.
 - Not subject to Open Record or Freedom of Information Requests.
 - Not subject to subpoena.
 - Not admissible in evidence if obtained from a regulator.
 - Commissioner may not make public.
 - Regulator cannot be required to testify about the documents.

EFFECTIVE NOVEMBER 1

HB 1512 – Omnibus

Model Holding Company Act

(Amends Title 36 O.S. 2011, Section 1651 & 1654)

- Incorporates the “enterprise risk” reporting requirement from the NAIC Holding Company Model Act into Oklahoma statutes.
- The ultimate controlling person of every insurer must file an annual report identifying the material risks within the insurance holding company that could affect the insurer.
- An enterprise risk is anything that is likely to have a material adverse effect upon the financial condition or liquidity of the insurer or its holding company.

HB 1512 – Omnibus

Fraternal Benefit Societies

(Amends Title 36 O.S. 2011, Section 1522-1527)

- Clarifies that fraternal benefit societies are subject to financial action by the Commissioner.

HB 1512 – Omnibus

RBC Multiplier

(Amends Title 36 O.S. 2011, Section 1524)

- Changes the Risk Based Capital multiplier from 2.5 to 3.0.

HB 1512 – Omnibus

Medical Malpractice Filings

(Repeals Title 36 O.S. 2011, Section 6821)

- Eliminates the preapproval requirement for all medical malpractice rates.
- All are now use and file.

HB 1512 – Omnibus

Dormant TPAs

(Amends Title 36 O.S. 2011, Section 1452)

- Eliminates annual report requirement for dormant third party administrators.

SB 697 – Federal Home Loan Bank

Collateralization

(Amends Title 36 O.S. 2011, Section 1904, 1922, 1926)

- Allows the federal home loan bank to have first claim on insurance company assets that collateralize their loans.

HB 1343 – Tribal Ownership

Certificate of Authority

(Amends Title 36 O.S. 2011, Section 607)

- Allows tribes to invest, own and/or control an insurance company in Oklahoma.

HB 1767 – Title Insurance

Counter Signature

(Amends Title 36 O.S. 2011, Section 5001)

- Previously a title insurance policy had to be signed by an abstractor or an attorney appointed by a title insurance company. Now, the policy can be signed by an agent of the title insurance company.

SB 1000 – Rental Cars

Licensing

(Amends Title 36 O.S. 2011, Section 1435.20)

- Changes the licensing of rental car insurance from individuals to companies.

SB 1000 – Rental Cars

Fees

(Amends Title 36 O.S. 2011, Section 1435.23)

- Establishes a fee of \$40 for rental companies with 2 or fewer locations.
- Establishes a fee of \$500 for rental companies with more than 2 locations.

ADJUSTERS



2013 Legislative Update

HB 1512 – Omnibus

Adjuster Continuing Education

(Amends 36 O.S. 2011, Section 6217)

- Puts this section of law in agreement with other sections stating that 24 hours of CE are required.



Adjusters Continuing Education

Non-Residents

(Amends 365:25-3-14(c))

- Allows non-resident adjusters to meet CE requirements in a designated home state that requires CE.

Credit Carry Over

(Amends 365:25-3-14(d)(3))

- Clarifies that up to 6 credit hours of excess CE may be carried forward as general hours.

Adjusters Continuing Education

Workers Compensation

(Amends 365:25-3-14(d))

- Reflects statute to remove the requirement for Oklahoma specific workers compensation CE.

Certificates

(Amends 365:25-3-14(d)(2))

- Clarifies certificates are only required to be submitted when requested by the OID.



Adjusters Continuing Education

Prerequisite for Renewal or Reinstatement

(Amends 365:25-3-14(d)(6))

- Changes the CE requirement time frame from “previous year(s)” to “renewal cycle.”
- Also, reflects the Department’s simplified electronic filing procedure for CE transcripts.



Continuing Education Providers

Provider Filings

(Amends 365:25-3-14(e)(1))

- Clarifies the \$200 CE Provider fee be paid at the time of application.
- Adds email address to the required provider information.

Renewal Fee

(Amends 365:25-3-14(e)(3))

- Requires a \$200 annual renewal fee.
- Late renewals cost \$400, double the renewal fee.



Continuing Education Providers

Course Approval

(Amends 365:25-3-14(f)(1))

- Courses must be submitted at least 30 days prior to use
- and at least 10 day prior to a CE Advisory Committee meeting.

Course Evaluation

(Amends 365:25-3-14(f)(13))

- Must inform producers of OID website comment option.



Continuing Education Providers

Course Content

(Amends 365:25-3-14(f)(8))

- Allows non- "company specific" content in areas that were previously prohibited.

Student List

(Amends 365:25-3-14(f)(10))

- The list of students completing the course must be electronically reported to the department.

WORKERS COMPENSATION



*Legislative, Administrative Code, and OJD
Changes 2013*

SB 788 – Contractors

Nonresident Contractors

(Amends 68 O.S. 2011, Section 1701.1)

- All contractors must have a worker's compensation policy.
- A nonresident contractor's policy must show "Oklahoma" or "All States" in Section 3C of the policy.

SB 1062 – WC Reform

Administrative System

- Creates an administrative law system.
- Creates a 3-person Workers' Compensation Commission to oversee the administrative law system.
- The Commission will appoint administrative law judges.
- Provides an exclusive remedy for most cases.

SB 1090 – Local Governments

Administrative System

(Amends 62 O.S. 2011, Section 361, 365.1, 362)

- Puts local governments under the administrative system.

SB 1062 – OK Option

Administrative System

- Employer may qualify for alternative injury benefit option.
 - Establish a written benefit plan.
 - Pay annual fee of \$1,500.
 - Must be approved by the Insurance Commissioner.
- Employers may self-insure or contract with an insurer.
- Creates an Oklahoma Option Insured Guaranty Fund.
- Provides an exclusive remedy for most cases.
- Provides a right of appeal.
- Provides for arbitration.

EFFECTIVE FEBRUARY 1, 2014

HB 2201 – CompSource

Mutualization

- Mutualizes CompSource as a private domestic insurance carrier.
- Phases in rating regulations over 3 years.
- Keeps CompSource the insurer of last resort.
- Makes CompSource subject to the Guaranty Fund.

HB 1108 - Captives

Location and Coverages

(Amends 36 O.S. 2011, Section 6470.3)

- Allows captives to write workers' comp coverage.

EFFECTIVE NOVEMBER 1

FUNERAL TRUSTS



2013 Legislative Update

HB 1512 – Omnibus

Record Retention

(Amends Title 36 O.S. 2011, Section 6123, 6125, 6125.2)

- Changes the retention requirement from 3 years to 6 years.

CEMETERY TRUSTS



2013 Legislative Update

HB 1512 – Omnibus

Late Renewals

(Amends Title 36 O.S. 2011, Section 7125)

- Allows 30 days for late renewal of permits.

BAIL BONDS



2013 Legislative Update

59 O.S. § 1306(A)(1)

“An applicant for a cash bondsman license shall meet all requirements set forth in Section 1305 of this title with exception of the one-year residence requirement. An applicant for a cash bondsman license shall affirmatively show that the applicant has been a bona fide resident of the state for six (6) months.”

- ***ALL license applicants must be Oklahoma residents***
- Cash license applicants must be an Oklahoma resident for **6 months** before applying
- All other license applicants must be an Oklahoma resident for **1 year** before applying

59 O.S. § 1306(A)(3)

“If a bondsman exceeds the above limitation, the bondsman shall be notified by the Commissioner ~~by mail with return receipt requested~~ that the excess shall be reduced or the deposit increased within ten (10) days of notification, or the license of the bondsman shall be suspended immediately after the ten-day period, pending a hearing on the matter.”

- If a professional goes over his/her writing limit, **any** notification from the Commissioner starts the 10-day window for the professional to either reduce their liability or increase their deposit
- ***Notification does not have to be by mail***

59 O.S. § 1306(D)

“Notwithstanding any other provision of Sections 1301 through 1340 of this title, the license of a professional bondsman is transferable upon the death or legal or physical incapacitation of the bondsman to the spouse of the bondsman, or to such other transferee as the professional bondsman may designate in writing, and the transferee may elect to act as a professional bondsman ~~until the expiration of the license or for a period of one hundred eighty (180) days, whichever is greater,~~ if the following conditions are met:

1. The transferee shall hold a valid license as a surety bondsman in this state; and
 2. The asset and deposit requirements set forth in this section continue to be met.”
- If a professional license is transferred to someone else, that person may only act as a professional bondsman for 180 days
 - After 180 days, they must obtain their own professional line of authority

59 O.S. § 1310 - Summary

- Section 1310 contains all of the general bail violations, such as:
 - committing fraud in obtaining the license,
 - soliciting business improperly,
 - failing to return collateral,
 - untrustworthiness or incompetency, etc.
- Violations of § 1310 can result in a censure, suspension, revocation, refusal to renew, or a fine of \$250 - \$2,500.

59 O.S. § 1310(A)(6)

“Fraudulent or dishonest practices or demonstrating financial irresponsibility in conducting business under the license;”

- Law passed in 2012 requires license *applicants* to show that they are “financially responsible” in order to get a license (59 O.S. § 1305(A)(2))
- This change requires the same thing from license *holders*.
- If a bondsman must be financially responsible in order to get a license, they must remain financially responsible to keep the license.

59 O.S. § 1310(A)(23)

“For failing to notify the Commissioner of a change of legal name, mailing address, ~~as noted on the license~~, e-mail address, or telephone number within five (5) days after a change is made, or failing to respond to a properly mailed notification within a reasonable amount of time;”

- Any change in mailing address, e-mail address, or telephone number must be updated on the Department website within 5 days of the change
- Changes in legal name require proper documentation sent to the Department (i.e. court order, marriage license, or divorce decree) (OAC 365:1-9-18(j)). Department staff will change it for you.
- Get an e-mail address and check it.

59 O.S. § 1310(A)(32)

“For failing to accept or claim a certified mailing from the Insurance Department, addressed to the bondsman’s mailing address on file with the Insurance Department.”

- ***Do not ignore certified mail from the Department. It will only make things worse***
- If you have a P.O. Box, check it often
- If you receive a notice from USPS that they have mail for you, go get it

59 O.S. § 1315(A)(13)

The following persons or classes shall not be bail bondsmen and shall not directly or indirectly receive any benefits from the execution of any bail bond:

.....

13. Any person whose bail bondsman license has been revoked by the Insurance Commissioner.

- If any bondsman has his/her license revoked, they may not be a bondsman again
- Additionally, ***they may not “directly or indirectly receive any benefits from the execution of any bail bond”***

59 O.S. § 1316(A)(2)

“Bail bondsmen shall not allow other licensed bondsmen to present bonds that have previously been signed and completed. The ~~individual~~ bail bondsman that presents the bond shall sign the form in the presence of the official that receives the bond.”

- Only a licensed bondsman can present a bond!
- Do not send your assistant or spouse to do it
- All bonds must be signed by the bondsman in front of the person who receives it

59 O.S. § 1316(C)

A At the time of payment, a bail bondsman shall provide the indemnitors with a proper receipt which shall include fees, premium or other payments and copies of any agreements executed relating to the appearance bond.

- You must provide a receipt for any payment ***as soon as you receive it***
- Do not wait until there is a dispute to provide a receipt
- Proper paperwork can keep you out of trouble

59 O.S. § 1317(C)

“Prior to issuance of a new surety appointment for a surety bondsman or managing general agent, the bondsman or agent shall file an affidavit with the Commissioner stating that no forfeitures are owed to any court, no fines are owed to the insurance department, and no premiums or indemnification for forfeitures or fines are owed to any insurer, insureds, or others received in the conduct of business under the license. If any statement made on the affidavit is found by the Commissioner to be false, the Commissioner may deny the new surety appointment or apply the sanctions set forth in Section 1310 of this title. This provision shall not require that all outstanding liabilities have been exonerated, but may provide that the liabilities are still being monitored by the bondsman or agent.”

- If you are trying to get a new surety appointment, you cannot owe any money to your old professional, company, MGA, or to anyone else (i.e. defendants or indemnitors)
- ***If your statement on the affidavit is false, the Commissioner may deny your appointment, and you may be subject to the penalties from Section 1310 (fine, censure, suspension, revocation)***

59 O.S. § 1320(A)

No bail bondsman shall become a surety on an undertaking unless he has first registered his license in the office of the sheriff and with the clerk of the district court in the county in which the bondsman resides or offices, but not both. In the county in which a bondsman registers his license, he shall provide the court clerk with proof that he is a resident of said county or that he offices in said county. The court clerk of the county shall provide a list of bondsmen permitted to write surety bail in that county to the judges and law enforcement offices of that county. The list shall consist of professional, property, cash and surety bail bondsmen. Only surety bail bondsmen with a current surety appointment shall be on the list. In any county not having a licensed bondsman authorized to do business within said county, the court having jurisdiction shall allow and fix bail.

A surety bondsman shall also file a certified copy of his appointment by power of attorney from the insurer which he represents as agent with each of said officers. A fee of ~~Ten Dollars (\$10.00)~~ Twenty Dollars (\$20.00) shall be paid to the district court clerk for each county in which the bail bondsman registers his license. The fee shall be payable ~~annually~~ biennially by the date of license renewal. The clerk of the district court and the sheriff shall not permit the registration of a bail bondsman unless such bondsman is currently licensed by the Insurance Commissioner under the provisions of Section 1301 et seq. of this title.

59 O.S. § 1332(A)

“If there is a breach of an undertaking, the court before which the cause is pending shall issue an arrest warrant for the defendant and declare the undertaking and any money, property, or securities that have been deposited as bail, forfeited on the day the defendant failed to appear. In the event of the forfeiture of a bail bond the clerk of the trial court shall, within thirty (30) days after the order and judgment of forfeiture is filed in the court, by mail with return receipt requested, mail a true and correct copy of the order and judgment of forfeiture to the bondsman, and if applicable, the insurer, whose risk it is, and keep at least one copy of the order and judgment of forfeiture on file;”

- The court clerk has 30 days to mail out a copy of the order and judgment of forfeiture to the bondsman and professional/company. But when does that 30 days start?
- ***It starts the day after the O&JF is filed in the court, NOT after the judge declares the forfeiture***

59 O.S. § 1332(D)(2)

“After the order and judgment has been paid within ninety-one (91) days from receipt of the order and judgment of forfeiture from the court clerk, or mailing of the notice if no receipt is made, as required in paragraph 1 of this subsection, the bondsman and, if applicable, the insurer whose risk it is shall have one year from the date payment is due to return the defendant to custody as defined by paragraph 3 of subsection C of this section. In the event the defendant is returned to custody and all expenses for the defendant's return have been paid by the bondsman or insurer, the bondsman's or insurer's property shall be returned; provided, the request for remitter be made by motion filed within one year from the date payment is due.”

- In order to receive your forfeiture payment back later, you must make that payment on or before the 91st day after receipt of the O&JF
- Don't wait until the 91st day. Too many things can go wrong to make you miss the day
- ***Any payment made on or after the 92nd day should not be remitted.***

365:1-9-18(j)

“**Name change on an individual license.** Name changes for an individual license require proper documentation at the time of the written request, such as a copy of a court order, marriage license, or divorce decree. A duplicate license fee shall be submitted for a new licensed to be issued”

- A change of legal name requires proper documentation be sent to the Department.
- Department staff will change the information for you.
- If you have any problems, the Bail Bond Division can help you.

365:25-5-47

“If the license of a professional bondsman is transferred pursuant to 59 O.S. § 1306(D), the transferee shall submit a financial statement to the Department within 180 days after the date of the transfer.”

- Goes along with the change to 59 O.S. § 1306(D) we talked about earlier.
- If a professional license is transferred to someone else, that person must submit a new financial statement within 180 days.

365:25-5-51(c)

“A bondsman whose license is suspended or has been revoked shall not be allowed to apply for a partial return of a deposit.”

- Partial returns of professional deposits are reserved for bondsmen with limited to no administrative history.
- If you’ve ever been suspended or revoked, you may not apply for a partial return.
- Full return still available to professional with zero liability.

Unreported Bonds

- OID has discovered over \$3,000,000 in unreported bonds for 2012.
- Most bondsmen forget to report 1 or 2—that's understandable.
- Many bondsmen have unreported 10-15 bonds—that's not understandable.
- Failing to properly report bonds is a violation of 59 O.S. § 1314, and will result in the bondsman having to report the bond on their next report. Can result in a fine.

SB 1013 – “Bounty Hunter Bill”

- The Bail Enforcement and Licensing Act is an entirely new section of law, found at 59 O.S. § 1350.
- Deals mostly with CLEET certification and regulation of bail enforcers.
- Bill also changes portions of the bail bond statutes.
- Some effects on bail bondsmen.

Bail enforcers generally

- After July 1, 2014, all bounty hunters (bail enforcers) in Oklahoma must be licensed by CLEET to recover fugitive defendants. § 1350.2
- Defined as any “person who acts, engages in, solicits or offers services to:
 - a. execute a prior to breach recovery of a defendant on an undertaking or bail bond contract, or
 - b. execute a recovery of a defendant for failure to appear on an undertaking or bail bond contract issued in this state, another state or the United States.” § 1350.1.2



Violations – § 1350.2

- Acting as a bail enforcer without a license will be a felony
 - fine up to \$10,000, and/or
 - prison sentence up to 3 years.
- Violating the Act while in possession of a firearm or other weapon (“taser, stun gun, baton, night stick or any other device used to subdue a defendant, or any noxious substances”):
 - Additional \$5,000 fine, and/or
 - 3 additional years on prison sentence.
 - Applies even if your firearm is authorized by the Oklahoma Self-Defense Act.
 - May permanently lose firearm license.

What can a bondsman do?

- A bail bondsman does not have to obtain a bail enforcer license to enforce his or her own bonds or any other bond for his or her company or professional. § 1350.1.2
- A person can hold both a bail bondsman license and a bail enforcer license. § 1350.3(B)

Who is barred from being a bail enforcer?

§§ 1350.3 and 1350.4

- Anyone barred from being a bondsman by 59 O.S. § 1315(A)
 - Felons, judges, revoked bondsmen, law enforcement, etc.
- Suspended bail bondsmen
- D.A.'s and their employees
- DOC employees
- Off-duty law enforcement officers may assist in recovering a fugitive without needing a bail enforcer license.

Changes to bail statutes

- Section 1327 amended to allow bail enforcers to return defendants to custody before a breach
 - Bondsman or surety still has to file written notification of the surrender
- Sections 1328 and 1332 amended to allow a bondsman to hire a bail enforcer to recover and surrender a defendant
- Bottom line: Rules for when you can surrender a defendant will remain the same, but you can hire a bail enforcer to do it

Summary

- Starting July 1, 2014, only three groups can recover defendants
 - Bail bondsmen enforcing their own bonds
 - Bail bondsmen enforcing any other bond for their insurer
 - Licensed bail enforcers
- Don't take a family member, friend, or anyone else unless they have the proper license.
- Don't even take another bondsman unless they work for the company/professional who insured the bond.
- Violations are a felony. With a weapon: extra punishment