



Bail Bondsman

This is notice of the upcoming statutory changes coming November 1, 2021 from Senate Bill # 792. The Senate Bill contains several changes that were discussed with the Bail Industry over the past several years. The changes are listed as follows:

Language added to 59 O.S. § 1306(A)(3) Cash Bondsman - Professional Bondsman.

- Currently: In no instance shall a professional bondsman write bonds which equal more than ten times the amount of the deposit which the bondsman has submitted to the Commissioner.
- Change: This limitation may be exceeded with the Commissioner's approval when a state of emergency or disaster is declared by the Governor, the Oklahoma Legislature, or by the United States Presidential Declaration of a Federal Emergency or Major Disaster.

Language added to 59 O.S. § 1314(A)(2) Receipt for Collateral – Duties – Reports – Records - Fees

- Currently: No requirement for bondsman to deposit cash or checks into trust accounts when received as collateral.
- Change: When collateral security is received in the form of cash or check or other negotiable instrument, the bondsman shall deposit the cash or instrument within two (2) business days after receipt in an established, separate non-interest-bearing trust account in any bank located in Oklahoma. The trust account funds required under this section shall not be commingled with other operating funds.

Language added to 59 O.S. § 1314(B)(2) Receipt for Collateral – Duties – Reports – Records - Fees

- Currently: Professional bondsmen and multicounty agent bondsmen shall submit electronic monthly reports showing total current liabilities, all bonds written during the month by the professional bondsman or multicounty agent bondsman and by any licensed bondsman who may countersign for the professional bondsman or multicounty agent bondsman, all bonds terminated during the month, and the total liability and a list of all bondsmen currently employed by the professional bondsman or multicounty agent bondsman.
- Change: "Professional bondsman and multicounty agent bondsmen shall submit electronic monthly" was removed and replaced with "Monthly." These reports shall still be submitted electronically.

Language removed from 59 O.S. §1315.1 Exceptions - ABLE Commission Investigation

- Change: Language was removed that is no longer applicable.

Language added to 59 O.S. §1327(A) Surrender of Defendant

- Current: After surrender, and upon filing of written notification of the surrender, the bond shall be exonerated and the clerk shall enter a minute in the case exonerating the bond.
- Change: After surrender, and upon filing of written notification of the surrender with the court clerk, the bond shall be exonerated and the clerk shall enter a minute in the case exonerating the bond.

Language added to 59 O.S. §1327(B)(2) Surrender of Defendant

- Current: None, this adds subsections (B)(2) and (B)(3)
- Changes:
 - Subsection (2): Except as provided for in paragraph 3 of this subsection, the premium for a bail bond shall be considered earned by the bondsman or the insurer, as applicable, when the defendant on the bond is released from custody and is not incarcerated in any capacity. If the bond premium has not been earned pursuant to the terms of this section, the payor of the premium or the depositor of any collateral, as applicable, may request the return of the premium or collateral given to the bondsman for the bond. The bondsman shall return any premium and collateral without delay. If a bondsman returns the premium to the payor pursuant to this section, he or she may charge a usual, customary, and reasonable fee for his or her services provided in the transaction.
 - Subsection (3): The premium for a bail bond shall be considered earned by the bondsman, regardless of whether the defendant on the bond is released from custody, if the bondsman and the payor of the bond premium have agreed in writing that the purpose of the bond is to secure the transfer of the defendant to another jurisdiction and the defendant is in fact transferred to that jurisdiction.

Language added to 59 O.S. §1327(D) Surrender of Defendant

- Current: When a defendant does appear before the court as required by law and enters a plea of guilty or nolo contendere, is sentenced or a deferred sentence is granted as provided for in [Section 991c of Title 22](#) of the Oklahoma Statutes, or deferred prosecution is granted as provided by law, in such event the undertaking and bondsman and insurer shall be exonerated from further liability.
- Change: Adds subsection (2), which states, “A bond posted for a petition for revocation of a suspended sentence, a petition for acceleration of a deferred sentence or any violation of a probationary term shall be exonerated by operation of law when: a) the defendant has confessed, stipulated, or otherwise agreed to the factual basis of the violation of probation,

b) the suspended sentence is revoked in whole or part, c) the deferred sentence is accelerated in whole or part, or d) any additional sanction is imposed by the court.

Language added to 59 O.S. §1327(G) Surrender of Defendant

- Current: None
- Change: Adds subsection (G), which states "For purposes of this section, a "usual, customary, and reasonable fee" means a charge to the payor that is based on the amount of time spent by the bondsman or his or her employees researching, drafting, and executing the bail bond. Such fee shall be detailed in a written document provided to the payor.

Language added to 59 O.S. §1328(A)(3) Procedure for Surrender of Defendant

- Current: When a bondsman or insurer recommits a defendant pursuant to this subsection, the bondsman or insurer shall file a written notification thereof to the courts, and after such notification, the bond or bonds shall be exonerated and the clerk shall enter a minute in the case exonerating the bond or bonds.
- Change: When a bondsman or insurer recommits a defendant pursuant to this subsection, the bondsman or insurer shall file a written notification thereof to the court clerk, and after such notification, the bond or bonds shall be exonerated and the clerk shall enter a minute in the case exonerating the bond or bonds.

Please read the information provided and make necessary changes to your business procedures to ensure you are in compliance with the new statutes. The statutory changes were a team effort between the Oklahoma Insurance Department and the Bail Industry working together. Together Everyone Achieves More.

If you have questions please feel free to reach out to the Oklahoma Insurance Department.



Lewis Garrison
Director of Bail