

16-84-101. Definitions.

As used in this chapter:

- (1) **"Admission to bail"** means an order from a competent court or magistrate that the defendant be **discharged** from actual custody **on bail** and **fixing the amount of the bail**;
- (2) **"Direct supervision"** means the person is in the **physical presence** of and **acting pursuant** to instructions from an Arkansas-licensed bail bond agent;
- (3) **"Professional bail bondsman"** means an individual licensed as a professional bail bondsman by the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board pursuant to § 17-19-201 et seq.;
- (4) **"Professional bail bond company"** means a person holding a professional bail bond company license issued by the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board pursuant to § 17-19-201 et seq.;
- (5) **"Surety"** means the person who becomes the surety for the **appearance** of the defendant in court; and
- (6)(A) **"Taking of bail"** or "take bail" means the **acceptance** by a person authorized to take bail of the undertaking of a **sufficient surety** for the **appearance** of the defendant according to the terms of the undertaking, or that the surety will pay to the court the sum specified.
- (B) "Taking of bail" or "take bail" shall not include the fixing of the amount of bail and no person other than a competent **court or magistrate shall fix the amount of bail**.

17-19-101. Definitions.

As used in this chapter, unless the context otherwise requires:

- (1) **"Bail bond or appearance bond"** means a bond for a specified monetary amount which is executed by the **defendant** and a qualified **licensee** under this chapter and which is **issued to a court**, magistrate, or authorized officer as security for the subsequent **court appearance** of the defendant upon his or her release from actual custody pending the appearance;

(2) "**Board**" means the Professional Bail Bond Company **and** Professional Bail Bondsman Licensing Board;

(3) "**Insurer**" means any surety company which has qualified to transact surety business in this state;

(4) "**Licensee**" means a professional bail bond company or a professional bail bondsman;

(5) "**Professional bail bond company**" means an individual who is a resident of this state, an Arkansas firm, partnership, or corporation, or a foreign corporation registered and authorized to conduct business in the State of Arkansas that **pledges a bail bond** in connection with a judicial proceeding and receives or is promised therefor **money** or other things of value; and

(6) "**Professional bail bondsman**" means an individual who is a **resident** of this state and who **acts through** authority of a professional bail bond **company** in pledging a bail bond as security in a judicial proceeding.

SECTION 4. DEFINITIONS

The following definitions as used in this rule shall have the following meaning:

A. "**Board**" shall mean the Arkansas Professional Bail Bond **Company and** Professional Bail **Bondsman** Licensing Board/Arkansas Professional Bail Bondsman Licensing Board;

B. "**Director**" shall mean the **Executive Director** of the Board;

C. "**Company**" shall mean a professional bail bond company as defined by Ark. Code Ann. Section 17-19-101(7);

D. "**Bail bondsman**" shall mean a professional bail bondsman as defined by Ark. Code Ann. Section 17-19-101(6);

E. "**Premium**" shall mean the money paid to a bail bondsman or professional bail bond company for release of an arrestee;

F. "**Arrestee**" shall mean any person actually **detained** or subject to detention in custody whose release may lawfully be effected by bail;

G. "**Licensee**" shall mean a professional bail bond **company** or

a professional bail **bondsman**;

H. "**Bail bond**" shall mean a bond for a specified monetary amount executed by the **defendant** or principal and a qualified **licensee** which is issued to a **court, magistrate**, or authorized officer as security for the subsequent **appearance** of the **defendant** upon his release from actual custody pending the appearance;

I. "**Jail**" shall mean any police station, sheriff's office or other place where persons in the custody of the law are detained;

J. "**Principal**" shall mean the person(s) paying the bail bond premium and/or giving the collateral;

K. "**Surety**" shall mean the person/company **responsible** for the **appearance** of the defendant in court;

L. "**Private Investigator**" shall mean an Arkansas licensed private investigator as defined by Ark. Code. Ann. § 17-40-102(9);

M. "**Bail Enforcement Agent**/Bounty Hunter" shall mean a person who is offered or given any compensation by a bail bond company/ bail bondsman or surety in exchange for assisting the bail bondsman or surety in apprehending or surrendering any defendant. This does not preclude the right of bail bondsman or sureties to hire counsel or to ask assistance of law enforcement officers.

N. "**Stacking**" shall mean executing **more than one bond** to avoid exceeding a bail bondsman's current Qualifying Power of Attorney.

O. "**Direct Supervision**" means the person is in the **physical presence** of, and **acting pursuant** to instructions from, an Arkansas licensed bail **bondsman**.

17-19-106. Professional Bail Bond Company and Professional Bail Bondsman Licensing Board.

(a) This section may be cited as the "Arkansas Professional Bail Bond Company and Professional Bail Bondsman **Licensing Act**".

(b)(1) There is hereby created the Professional Bail Bond Company and Professional Bail Bondsman **Licensing Board**.

(2)(A) The board shall be composed of **eight (8) members** to be appointed by the **Governor** for terms of **seven (7) years**.

(B) **Vacancies** shall be filled by appointment of the **Governor** for the unexpired portion of the term.

(3)(A) Three **(3)** members of the board shall be licensed bail bond **company owners**, one (1) a municipal **chief of police**, one (1) **a county sheriff**, one (1) **a municipal or circuit judge**, and two **(2)** shall be **residents** of the state who are not a bail bond company owner, an elected judge, a sheriff, or a chief of police.

(B)(i) **No two (2) of the three (3)** bail bondsman members shall reside in the **same congressional district**.

At least one (1) board member shall be an **African American**.

At least one (1) board member shall be a **female**.

(4) The board shall have the authority and responsibility to administer and enforce the provisions of this chapter relating to licensing and regulation of professional bail bond companies and professional bail bondsmen.

(5) The board shall have the authority to adopt and enforce such **reasonable rules and regulations** as it shall determine to be necessary to enable it to effectively and efficiently carry out its official duty of licensing and regulating professional bail bond companies and professional bail bondsmen.

17-19-108. Rules and regulations.

The Professional Bail Bond Company and Professional Bail Bondsman Licensing Board shall adopt such **reasonable rules and regulations** as it shall deem necessary to assure the effective and efficient administration of §§ 17-19-107 and 17-19-212 and § 17-19-401 et seq.

The members of the board shall receive **expense reimbursement** in accordance with § 25-16-901 et seq., and a stipend pursuant to § 25-16-904.

The provisions of this section shall not be construed to repeal any laws in effect on August 13, 1993, relating to the licensing and regulation of professional bail bond companies and professional bail bondsmen but such laws shall remain in full force and effect and shall be administered by the board created herein.

16-94-216. Bail.

Unless the offense with which the prisoner is charged is shown to be offense punishable by **death or life imprisonment** under the laws of the state in which it was committed, the **judge or magistrate must admit** the person arrested to **bail** by **bond** or undertaking, with **sufficient sureties**, and in such sum as the judge or magistrate deems proper, for the prisoner's appearance before the judge or magistrate at a time specified in such bond or undertaking, and for the prisoner's surrender, to be arrested upon the warrant of the Governor of this state.

16-84-113. Application for bail.

If the defendant is committed to jail and the application for bail is made to a judge or magistrate during **vacation**, it must be by **written petition** signed by the defendant or his or her counsel briefly stating the offense for which he or she is committed and naming the persons offered as surety.

In all other cases, the application may be made **orally** to the **judge** or **magistrate**

16-84-102. Person authorized to take bail

The following may take bail:

A **judge, magistrate, or clerk** of the court;

A **sheriff** or deputy sheriff with respect to any person committed to the **common jail of the county**;

Any **law enforcement officer designated** by a municipal police department with respect to any person committed to a municipal jail; and

A law enforcement officer making an arrest as authorized under § 16-81-109.

A constable shall not take bail.

16-81-109. Bail.

(a)(1) When any sheriff or other law enforcement officer makes an arrest, he or she is authorized to **take** and to approve bail in the manner provided by law wherever he or she makes the arrest.

(2) If the offense charged is a misdemeanor, the person arrested may immediately give bail for appearing on a day to be named in the bail bond before the judge or magistrate who issued the warrant or before the court having jurisdiction to try the offense. The sheriff or other officer making the arrest may be authorized by the judge or magistrate issuing the warrant to take the bail by an endorsement made on the warrant to that effect.

(b)(1) If the defendant gives bail for his or her appearance before the judge or magistrate for an examination of the charge, as provided in subsection (a) of this section, the sheriff or officer taking the bail shall fix the day of the defendant's appearance.

(2) A deviation from the provisions of subdivision (b)(1) of this section shall not, however, render the bail bond invalid.

16-84-115. Deposit of money in lieu of bail.

Notwithstanding any rule of criminal procedure to the contrary;

(1)(A) Whenever the defendant is **admitted to bail** in a specified sum, he or she may **deposit the sum** with the proper city or county official in the city or county in which the trial is directed to be had and take from the official a receipt of the deposit, upon delivering which to the officer in whose custody he or she is, he or she shall be discharged.

(The deposit of money is known as a "cash bail" and is not considered a part of the otherwise "Surety" requirements)

(A) After bail has been taken, a deposit may in like manner be made of the sum mentioned in the bail bond, which shall exonerate the surety.

(2) Where money is deposited, the proper city or county official shall hold and pay the money according to the **orders of the court** having jurisdiction to try the offense, and he or she and his or her sureties shall be liable for the money on their official bond.

(3) Upon **Judgment** being rendered against a defendant for **fine and costs**, the court rendering judgment **may** order any money deposited agreeably to

this section to be applied to the payment thereof. This subdivision (a)(3) shall not apply to a bail bond of a bail bondsman.

(4) The mayor shall designate the city official or officials who may accept a deposit of money in lieu of bail, and the county judge shall designate the county official or officials authorized to accept a deposit of money in lieu of bail.

16-84-202. Disposition of deposit.

Where money is deposited in lieu of bail with a city official, after the forfeiture and final judgment of the court, the city official shall make **settlement with the city treasurer who shall deposit the funds to the credit of the city general fund.**

Where money is deposited in lieu of bail with a county official, after the forfeiture and final adjournment of the court, the county official shall make settlement with the **county treasurer who shall deposit the funds to the credit of the county general fund**

16-84-103 Qualification of surety.

The surety shall be:

A professional bail bondsman acting through a professional bail bond company; or

A **resident of the state**, owner of visible property, over and above that exempt from execution, to the value of the sum in which **bail** is required, and shall be **worth** that amount after the payment of the surety's debts and liabilities.

The person or persons offered as surety shall be examined on oath in regard to qualifications as surety, and any officer authorized to take bail is authorized to administer the oath, reduce the statements on oath to writing, and require the person or persons offered as surety to sign the statement.

Other proof may also be taken in regard to the sufficiency of the surety.

Prior to submission to the court or magistrate the statement shall also be signed by the sheriff or chief of police in the jurisdiction where the

defendant is charged.

Proof that the surety is a **licensed professional bail bondsman** shall be deemed **sufficient proof of the sufficiency of the surety**, and the surety shall be accepted by all courts in this state or by any individual authorized to take bail under the provisions of § 16-84-102.

No person shall be taken as surety unless the court or magistrate is satisfied, from proof and examination on oath, of the sufficiency of the person according to the requisitions of subsection (b) of this section.

Where more than one (1) person is offered as surety, they shall be deemed sufficient if, in the **aggregate**, they possess the qualifications required

16-84-106. Attorneys and officers not to be sureties.

No attorney, solicitor, or counselor at law or in equity, clerk, **sheriff, chief of police, law enforcement officer**, or other person concerned in the execution of any process, shall become a personal guarantor or surety in any criminal proceeding.

What about the spouse of any of above? Says nothing about them. Yes,

16-84-104. Additional security.

There shall be **no rules, regulations, or requirements** enacted by any judge, magistrate, sheriff, or other officer of the court, requiring any professional bail bondsman or professional bail bond company to post any **sum of security in addition** to that required by the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board pursuant to § 17-19-205 as a requirement for acceptance or writing bail bonds.

16-84-105. Responsibility of officer taking bail.

(a) The officer who takes bail shall be **officially responsible** for the **sufficiency of the surety** if taken **other than through a professional bail bondsman.**

(b) If the surety is **not a professional bail bondsman**, and the defendant has not yet appeared before a judicial officer pursuant to Rule 9 of the Arkansas

Rules of Criminal Procedure, the officer shall file a statement with the court **describing the property of the surety upon which the sufficiency** of the surety is based. The description of the property shall include the value of the property. The statement shall also be signed by the sheriff or chief of police in the jurisdiction where the defendant is charged.

(c) The officer who takes bail shall give a prenumbered written receipt for the collateral. The receipt shall give in detail a full account of the collateral received.

(d) An officer who takes bail shall not be liable for any bond ordered by a judicial officer under Rule 9.2(b)(i) or (ii) of the Arkansas Rules of Criminal Procedure.

16-84-107. Form of bond. (Resident Surety)

(a) The undertaking of the surety, **other than by a professional bail bondsman**, shall be substantially as follows:

"A.B., being in custody, charged with the offense of (naming or briefly describing it), and being admitted to bail in the sum of
..... .. dollars, we C.D., of (stating his place of residence), and
E.F., of (stating his place of residence), hereby undertake that the above
named A.B. shall appear in the court on the day of its term
to answer said charge, and shall at all times render himself or herself amenable to
the orders and process of said court in prosecution of said charge, and, if
convicted, shall render himself in execution thereof; or if he fail to perform either
of these conditions, that we will pay to the appropriate court the sum of
dollars."

16-84-108. Bonds not void for want of form.

No prosecution, appeal, nonresident, or attachment bond, nor any other statutory bonds of any party, plaintiff, or defendant in any court of justice, in this state, nor any recognizance in any criminal cause in this state, shall be declared null and void for the want of form if the intent of the bond can be plainly deduced from the body of the bond or recognizance

If the **surety is a professional bail bondsman**, the undertaking of the surety shall be in a **form prescribed by the regulations of the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board.**

SECTION 5. BAIL BOND FORM

Every bail bond issued by a professional bail bond company or its licensee(s) shall conform exactly to the forms prescribed in Appendices "A" and "B", shall have attached to it a "Statement of Bail and Payment Received" as prescribed in Appendix "C" and shall be preprinted with sequential numbers

16-84-109. Irregularity of bail bond or recognizance.

No bail bond or recognizance shall be deemed to be invalid by:

Reason of any variance between its stipulations and the provisions of this chapter;

The failure of the judge or magistrate or officer to transmit or deliver the bail bond or recognizance at the times provided in this subchapter; or

Any other irregularity so that it is made to appear that the defendant was:

Legally in custody;

Charged with the public offense; and

Discharged from the offense by reason of the giving of the bond or recognizance; and

Can be ascertained from the bond or recognizance, that the surety undertook that the defendant should appear before a judge or magistrate for the trial of the offense.

(b)(1) If **no day is fixed** for the appearance, or an impossible day, or a day in vacation, the bond or recognizance, if for his or her appearance before a **judge or magistrate**, shall be considered as binding the defendant so to appear and surrender himself or herself into custody for an examination of the charge in **twenty (20) days** from the time of his or her giving the bond or recognizance.

(2) The bond or recognizance, if for his or her appearance for **trial in court**, shall be considered as binding the defendant to appear and surrender himself or herself into custody on the **first day** of the **next term** of the court which shall commence **more than ten (10) days** after the giving of the bond or recognizance.

16-84-110. Bail before conviction.

Before conviction, the defendant may be **admitted to bail** for his or her appearance:

- (1) Before a judge or magistrate for an examination of the charge where the offense charged is a misdemeanor;
- (2) In the court to which he or she is sent for trial;
- (3) To answer an indictment which has been found against him or her; or
- (4) In a criminal action.

16-84-111. Bail during trial.

During the trial of an indictment for a **misdemeanor**, the defendant may **remain on bail**.

However, for a **felony** when a defendant is upon bail, he or she may **remain upon bail** or be kept in **actual custody** as the **court may direct**. If the defendant remains on bail, any surety's liability shall be exonerated unless the **surety has agreed** to remain as the surety until final judgment is rendered.

(Surety agrees pursuant to the bail bond contract...”and if convicted shall render himself in execution thereof”)

16-84-112. Entering of recognizance on court minutes.

All recognizances required or authorized to be taken in any criminal proceeding, in open court, by any court of record shall be entered on the **minutes of the court**, and the substance thereof shall be read to the person recognized.

16-84-116. Recommitment after bail or deposit of money.

The court in which a prosecution for a public offense is pending may, by an order, direct the defendant to be arrested and committed to jail until legally discharged, after he or she has given bail, or deposited money in lieu thereof, in the following cases:

(1) When by having **failed to appear**, a forfeiture of bail or of the money deposited has been incurred;

(2) When the court is satisfied that his or her surety, or either of them, is **dead, or insufficient**, or has **moved from the state**; **(Resident Surety)**

(3) Upon an **indictment's being found for an offense not bailable**.

(b) Upon the order being made, the clerk shall issue process for the arrest and recommitment of the defendant. If the order is made on account of either of the cases mentioned in subdivision (a)(1) or (a)(2) of this section, the defendant shall be admitted to bail as upon his or her first commitment, in a sum to be fixed by the court and named in the process for his or her arrest.

16-85-101. Right to attorney, physician, and phone calls.

While confined and awaiting trial in any prison or jail in this state, no prisoner **shall be denied** the right to

Consult an **attorney** of the prisoner's own choosing;

Call a **physician** of the prisoner's own choosing if in need of one;

Place **free telephone calls to a bondsperson** if the calls are local calls.

Any officer or other person having charge or supervision of any prisoner in the state who refuses to permit the prisoner to consult an attorney of the prisoner's own choosing, call a physician of the prisoner's own choosing, or place free telephone calls to a bondsperson if the calls are local shall be guilty of a **Class B misdemeanor**.

17-19-105. Prohibitions.

No professional bail bondsman or professional bail bond company, nor court, nor law enforcement officer, nor any individual working on behalf of a professional bail bondsman or professional bail bond company, shall:

- (1) Require as a **condition** of his or her executing a bail bond that the principal agree to engage the services of a **specified attorney**;
- (2) **Solicit business or advertise for business** in or about any place where prisoners are confined or in or about any court;
- (3) Suggest or advise the engagement of any bail bond company or professional bail bondsman to underwrite a bail bond;
- (4) **Enter a police station, jail, sheriff's office**, or other place where persons in custody of the law are detained, for the purpose of obtaining employment as a professional bail bondsman or professional bail bond company, without having been **previously called** by a person so detained or by some relative or other authorized person acting for or in behalf of the person so detained. Whenever such an entry occurs, the person in charge of the facility shall be given and promptly record the mission of the licensee and the name of the person calling the licensee and requesting him or her to come;
- (5) Pay a **fee or rebate** or give or promise **anything of value** to:

A jailer, policeman, peace officer, committing magistrate, or any other person who has power to arrest or to hold in custody; or

Any public official or public employee in order to secure a settlement, compromise, remission, or reduction of the amount of any bail bond or special treatment thereof;

Pay a fee or rebate or give anything of value to an attorney in bail bond matters, except in defense of any action on a bond;

Pay a fee or rebate or give or promise anything of value to the principal or anyone in his or her behalf;

Participate in the capacity of an attorney at a trial or hearing of one on whose bond he or she is surety;

Attempt to obtain settlement or dismissal of a case;

Give or attempt to give any **legal advice** to one on whose bond he or she is surety; or

Accept anything of value from a principal except the **premium**, provided that the licensee shall be permitted to accept **collateral** security or other indemnity from the principal which shall be **returned upon final termination of liability on the bond**. The collateral security or other indemnity required by the licensee must be reasonable in relation to the amount of the bond.

17-19-302. Collateral -- Receipt required.

When a licensee accepts collateral, he or she shall give a **prenumbered written receipt** for it, and this receipt shall give in detail a full account of the collateral received. The licensee may perfect his or her lien on the collateral by any procedure available under the Uniform Commercial Code, § 4-1-101 et seq., or any other procedure provided for by law.

SECTION 22 COLLATERAL; FIDUCIARY RELATIONSHIP

A. When a bail bond company/agent takes physical possession of collateral, a pre-numbered written receipt must be given reflecting the following:

- (1) the name, address and telephone number of the professional bail bond company;
- (2) the name and signature of the person giving collateral;
- (3) the bail bond number(s) for which collateral is posted;
- (4) a description and approximate value of collateral received;
- (5) the purpose for collateral received; and
- (6) the name and signature of the bail bond agent.

B. Any licensee who receives collateral in connection with a bail transaction shall receive such collateral in a fiduciary capacity, and, prior to any forfeiture of bail, shall keep it **separate and apart** from any other funds or assets of such licensee.

C. **At no time shall collateral be converted to the personal use** of the licensee or bail bond company prior to any forfeiture.

SECTION 23. RETURN OF EXCESS COLLATERAL ON FORFEITURE; EXPENSES

A. If collateral received is in excess of the bail forfeited, such **excess** shall be **returned to the person who placed the collateral** with the licensee

immediately upon the application of the collateral to the forfeiture.

B. **Documented reasonable expenses** incurred due to a breach of the bail bond contract or Court Order may be **deducted** from the collateral, if the Court does not allow a remission from the sum specified in the bail bond.

17-19-109. Advertising by professional bail bond companies.

(a) All business cards, signs, telephone ads, newspaper ads, or any other type of advertising by professional bail bond companies shall display the **company name prominently** to assure that the identity of the company doing the advertising is readily apparent.

Any such advertising by or on behalf of individual professional bail bondsmen shall prominently display the name of the bail bond company and shall contain no information or other indication that the bail bondsman is independent of the company.

17-19-306. Posting of bondsmen list.

The chief law enforcement officers of any facilities having individuals or prisoners in their custody shall post in plain view in the facility housing those individuals or prisoners a list of **registered bonding companies**.

The list shall be prepared by the **Professional Bail Bond Company and Professional Bail Bondsman Licensing Board** and shall contain the names of the professional bail bond companies that are **registered** with the **board** for the purpose of being included on the list.

This registration is for the purpose of being on the phone list in each county only.

Once a professional bail bond company has registered to be on the phone list, it shall not be necessary for it to register each year.

The company shall keep its place on the list from year to year unless the company's license has been revoked, canceled, or not renewed.

The list shall be posted in each municipality of the county.

Professional bail bond companies shall be included on the list in the order in which they were initially registered with the circuit clerk pursuant to this

chapter.

However, a company with a revoked, canceled, or nonrenewed license shall be removed from the list.

On or before January 1, 2008, the circuit clerk of each county shall certify the list as it exists on the date of certification and forward the certified list to the board.

After January 1, 2008, the board shall maintain the list and be responsible for registrations.

The order of the company names shall not change from year to year.

However, a company with a revoked, canceled, or nonrenewed license shall be removed from the list.

The list shall be prepared by the board pursuant to the following specifications:

The list shall contain three (3) columns that shall be headed as follows:

(A) Bail bond company;

(B) Local address; and

(C) Telephone number;

Each column shall contain the following information:

Bail Bond Company. The professional bail bond company name and code number shall be typed in the first column on the left-hand side of the page, with the home office address, city, state, zip code, and home office telephone numbers directly under the company name in the same column. No more than two (2) telephone numbers shall be listed for each company;

Local Address. The second column shall contain one (1) address for each bail bond company; and

Telephone Number. The third column shall contain no more than two (2) telephone numbers per company, to be typed directly across the page from the local address, which appears in the second column; and

A solid line shall be placed between the end of the listing of one company and the beginning of the listing of the next company so that each company is clearly identified.

(d) The list shall be prepared by the board in the format of the following example:

BAIL BOND COMPANY	LOCAL ADDRESS	TELEPHONE#
Company Name #AZ Home Office Address City, State, Zip Home Office Phone Number(s) (2)		555-0000 1-800-666-0000
Company Name #ZA Home Office Address City, State, Zip Home Office Phone Number(s) (2)		
Company Name #DX Home Office Address City, State, Zip Home Office Phone Number(s) (2)		

SECTION 38. ADVERTISING

A. All advertising pursuant to Ark. Code Ann. Section 17-19-109 shall prominently display the company name, i.e., the company name shall be larger than the agent's name. (See Appendix "H".)

B. There will be no fictitious names used in the bail bond business. All advertising will be in the name of the licensed company only.

C. Companies shall annually provide the Board a list containing the physical address and phone number of its offices or business locations publicly displaying advertising. The list shall be included in the company's renewal application.

D. When a bail bond office or business location publicly displaying advertising changes addresses or closes or a new bail bond office or business location publicly displaying advertising is opened, the company must notify the Board within thirty (30) days of such address change, closing, or opening of the new bail bond office or business location.