

## **Licensing:**

### **17-19-201. Licenses required.**

No person shall engage in bail bond business without first having been licensed as provided in this chapter.

A professional bail bondsman shall not execute or issue an appearance bond in this state without holding a valid appointment from a professional bail bond company and without attaching to the appearance bond an executed and numbered power of attorney referencing the professional bail bond company.

### **SECTION 16. LICENSE REQUIRED**

A. A licensed bail bondsman must carry a current copy of his/her company's license, his/her bail bondsman license and a current copy of his/her Qualifying Power of Attorney and must present same when initiating a bail bond if documents are requested by authorized person(s).

B. The signature of the bail bondsman issuing the bond must be affixed to the bond. Bonds shall not be pre-signed by the bail bondsman nor shall any licensee sign another bail bondsman's name.

C. Any licensed bail bondsman or licensed bail bond company who permits any person not so licensed to solicit or engage in the bail bond business in his/her/its behalf or any professional bail bond company or professional bail bondsman who permits any bail bond to be executed to effect the release of a defendant without being physically present shall be deemed in violation of Ark. Code Ann. Section 17-19-201.

D. The definition of bail bond business shall not include individuals employed solely for the performance of clerical, stenographic, investigative or other administrative duties if the employee's compensation is not related to the number of bail bonds written. Notwithstanding the foregoing, no person whose bail bondsman license has been revoked may be employed by a bail bond company in any capacity. Additionally, no member, officer or director of a bail bond company whose license has been revoked may be employed by a bail bond company in any capacity, unless the Board entered a specific finding of fact in the matter that the member, officer or director was not personally at fault and did not acquiesce in the matter on account of which the company license was revoked as provided by Ark. Code Ann. §17-19-210(g).

## **SECTION 15. LICENSES**

A. At least one owner/officer/partner must be a licensed bail bondsman licensed in two of the preceding three years.

B. All company owners/officers/directors/stockholders/partners will be required to apply to the Identification Bureau of the Department of Arkansas State Police for a state and nationwide criminal records check to be conducted by the Federal Bureau of Investigation. The criminal records checks will be required for any company licensee regardless of whether the owner/applicant is a licensed Arkansas bail bondsman.

C. Changes in ownership or changes to the corporate structure of any Arkansas licensed bail bond company shall be transmitted to the Board via a completed bail bond company application indicating the change. Criminal record checks will be submitted for those owners/officers/directors/stockholders/partners not previously listed.

D. Names of applicants for a bail bondsman license will be forwarded to sheriffs, police chiefs and prosecutors for references. Negative replies shall be investigated to determine if licensing infractions exist.

E. Company licensees will go through the same procedure as a bail bondsman licensee in regard to letters to sheriffs, police chiefs and prosecutors. This applies to all sole proprietors, partners, stockholders and officers.

F. Any application for a company license will be approved or denied by the Board.

G. There will be no fictitious names used in the bail bond business. Company applications containing fictitious names will be returned.

H. Applicants for a bail bondsman license will be approved or denied by the Board or its designee.

I. In the case of a bail bondsman's application being denied by the Board Designee, the applicant can appeal the decision to the Board.

J. Applicants for an initial bail bondsman license who satisfactorily complete the examination and meet the other qualifications and requirements prescribed by law, including eight (8) hours of beginning education, shall be licensed by the Board.

### **17-19-305. Appearance bond.**

Upon issuance of the license, a professional bail bondsman shall not issue an appearance bond exceeding the monetary amount for each recognizance which is specified in and authorized by the power of attorney filed with the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board until the board receives a duly executed power of attorney from the professional bail bond company evidencing or authorizing increased monetary limits or amounts for the recognizance.

(c) An insurer shall not execute an undertaking of bail without being licensed as a professional bail bond company.

(d) A professional bail bond company shall not engage in the bail bond business:

(1) Without having been licensed as a professional bail bond company under this chapter; and

(2) Except through an agent licensed as a professional bail bondsman under this chapter.

( e) A professional bail bond company shall not permit any unlicensed person to solicit or engage in the bail bond business in the company's behalf, except for individuals who are employed solely for the performance of clerical, stenographic, investigative, or other administrative duties which do not require a license under this chapter and whose compensation is not related to or contingent upon the number of bonds written.

### **17-19-110. Licensed bail bond agent.**

(a) A licensed bail bond agent shall be permitted to write a bail bond in any county if:

(1) The agent has a current license with a current licensed professional bail bond company; and

The agent and the agent's company are in good standing with the courts in the jurisdiction where the bond is to be posted.

(b) of attorney that is on file with the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board.

(c)(I) Only one (1) power of attorney per bond not exceeding the agent's

qualifying power of attorney shall be permitted unless a court has separated the charges and amounts of bonds.

Powers of attorney shall not be stacked.

## **SECTION 6. QUALIFYING POWER OF ATTORNEY FORM**

A. Each company, upon either an initial or renewal application for a company license, must submit to this Board a Qualifying Power of Attorney from the company, specifying the authority limits of each of its licensees.

B. A new Qualifying Power of Attorney must be submitted to this Board immediately for any increases, decreases or other changes made between licensing periods.

C. The original Qualifying Power of Attorney increase signed by the bail bondsman/attorney-in-fact, must be received by the Board prior to a bail bondsman initiating a bond for the increased amount.

D. Qualifying Power of Attorney increases shall not be submitted for the purpose of allowing a bail bondsman to write a bond that violates his/her existing Qualifying Power of Attorney or with the intent of reversing the increase subsequent to the bond being written.

E. The Qualifying Power of Attorney shall be executed in the form prescribed in Appendix "D" of this rule.

F. All licensed bail bondsmen shall, at any time they are writing bonds, carry a current copy of their Qualifying Power of Attorney that is on file with the Arkansas Professional Bail Bond Licensing Board.

G. Only one power of attorney per bond, not exceeding the bail bondsman's Qualifying Power of Attorney, is allowed, unless a court has separated the charges and amounts of bonds. Powers of attorney shall not be stacked.

H. Those companies operating as sole proprietorships shall not be required to execute and file a Qualifying Power of Attorney form unless such company has licensees other than the sole proprietor.

## **SECTION 7. REGULAR POWER OF ATTORNEY FORM**

A. Every bond executed by a bail bondsman shall include a numbered

power of attorney indicating a valid appointment from a professional bail bond company and referring to that company.

B. The power of attorney shall be in the form prescribed in Appendix "A" of this rule and shall have "Item 2" preprinted.

C. A **sole proprietor** of a company shall include on bonds he executes an affidavit of sole proprietorship in the form prescribed by Appendix "B" of this rule.

### **17-19-202. Applications.**

(a) Every applicant for a professional bail bondsman license or a professional bail bond company license shall apply on **forms** furnished by the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board.

(b) The application of a professional bail bondsman shall be accompanied by a duly executed **power of attorney** issued by the professional bail bond company for whom the professional bail bondsman will be acting.

An application for a professional bail bond company license shall be accompanied by proof that the applicant:

Is an Arkansas partnership, firm, or corporation, a foreign corporation registered and authorized to conduct business in the State of Arkansas, or an individual who is a **resident** of the state; and

Has at least one **(1)** owner or partner that has been licensed for at least **two (2)** years during the last three **(3)** years by the State of Arkansas as a professional bail bondsman.

A corporation shall file proof that its most recent annual franchise tax has been paid to the Secretary of State.

At the time of application for every professional bail bond company license, there shall be paid to the board:

- (i) For a new company license, a fee of two thousand five hundred dollars **(\$2,500)**; or
- (ii) For a renewal of a company license, a fee of one thousand dollars **(\$1,000)**.

Each professional bail bond company license or renewal for a sole proprietor, partnership, or corporation shall include one (1) license for one (1) agent per company per year.

Each applicant for a professional bail bondsman license shall pay the board a license fee of one hundred dollars **(\$100)** at the time of application, except that if the applicant is also an applicant as an individual for a professional bail bond company license, then the applicant shall not be required to pay a license fee for licensure as a professional bail bondsman but shall comply with all other requirements for licensure as a professional bail bondsman.

(2) License fees shall be **payable in full on a yearly basis** regardless of the date of issuance.

(3) Any agent who transfers his or her license from one professional bail bond company to another shall:

(A) Pay to the board a **transfer fee** of two hundred fifty dollars **(\$250)**; and

(B) File with the board:

A sworn affidavit stating that all premiums, fees, and powers of attorney owed to or issued by the professional bail bond company from which he or she is transferring his or her license have been **delivered to the company**;

(i) A **letter of resignation** addressed to the professional bail bond company from which he or she is transferring or a letter of termination addressed to him or her from the professional bail bond company terminating his or her appointment;

(ii) A completed **agent application** on forms prescribed by the board;

(iii) A completed company statement from the company to which he or she desires to transfer his or her license; and

(iv) An original **qualifying power of attorney** issued by the company to which he or she desires to transfer his or her license.

(5)(A) Upon receipt of a request for transfer of a bail bondsman license, the applicable transfer fee, and the documents specified in subdivision

(d)(4) of this section, the board shall forward copies of the letter of resignation, if applicable, and the sworn affidavit of the agent to the professional bail bond company from which the agent desires to transfer his or her license.

Upon receipt of the letter of resignation, if applicable, and the sworn affidavit of the licensee, the professional bail bond company from which the agent is transferring shall have **seven (7) business days** to contest the agent's sworn statement.

A professional bail bond company contesting an agent's sworn statement shall file a written complaint on forms furnished by the board setting out in detail the property that the company denies the agent has returned as attested by the sworn affidavit.

Any documents supporting the complaint contesting the sworn affidavit and which shall be offered as evidence to prove the complaint shall be filed with the complaint.

Upon receipt of the complaint, the Executive Director of the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board shall set the matter for informal hearing to be held within seven (7) days of receipt of the complaint and advise the professional bail bond company and the agent by certified mail, return receipt requested, of the date, time, and location of the informal hearing.

Either party may appeal the decision of the executive director to a formal hearing before the board by filing with the board a notice of appeal within seven (7) days of receipt of the decision by the executive director.

No transfer of an agent's license shall be effective prior to the expiration of the seven-day period for contesting the transfer request unless the professional bail bond company from which the agent is requesting a transfer shall notify the board that it has no objection to the transfer, in which case the transfer may be entered prior to expiration of the seven-day period.

If no complaint contesting the agent's sworn affidavit is received during the seven-day contest period, the license shall be transferred as requested.

A professional bail bond company that does not contest the sworn affidavit of a transferring agent is not precluded by the failure to contest the sworn affidavit from filing a complaint that alleges a

violation of the applicable statutes, rules, or regulations by the transferring agent upon discovery of the alleged violation by the professional bail bond company.

If the allegations of a complaint contesting the transfer are found by the board to have been established, no transfer of the license shall be accomplished until the agent accounts for, returns, or pays to the professional bail bond company contesting the transfer the property or money issued to or held in a fiduciary capacity by the agent.

If a complaint is filed contesting the sworn affidavit of the transferring agent, a specific finding of fact shall be made by the board concerning whether the affidavit or complaint contesting the affidavit was filed in good faith by the respective parties.

In the case of a finding of a lack of good faith, the party to whom the finding applies shall be subject to sanctions or disciplinary action pursuant to the provisions of § 17-19-210 and as provided by applicable rules

### **17-19-203. Character references.**

Each applicant for a professional bail bondsman license shall:

(1) File with the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board written statements from at least three (3) persons who know his or her character;

(2)(A) Be required to apply to the Identification Bureau of the Department of Arkansas State Police for a state and nationwide **criminal records check** to be conducted by the Federal Bureau of Investigation.

The criminal records check shall conform to the applicable federal standards and shall include the taking of fingerprints.

The applicant shall sign a release of information to the board and shall be responsible to the Department of Arkansas State Police for the payment of any fee associated with the criminal records check.

Upon completion of the criminal records check, the Identification Bureau of the Department of Arkansas State Police shall forward all information obtained concerning the applicant to the board.

At the conclusion of the criminal background check required by this

subdivision (2), the Identification Bureau of the Department of Arkansas State Police shall promptly destroy the fingerprint card of the applicant; and

Such other proof as the board may require that he or she is competent, trustworthy, financially responsible, and of good personal and business reputation and has not been convicted of a felony or any offense involving moral turpitude

## **SECTION 20. LICENSE DENIAL – BONDSMAN**

A. A bail bondsman's license shall not be issued or renewed to any individual, and may be revoked, if that individual:

1. Has been convicted of a felony or any offense involving moral turpitude.
2. Is regularly or frequently employed by:
  - (a) A court of law; or
  - (b) A public law enforcement agency.
3. Is an attorney licensed by the State of Arkansas or an employee of an attorney.
4. Is found by the Board to be incompetent, untrustworthy, financially irresponsible or of doubtful personal and business reputation;
5. Is a person whose license has been previously revoked.

## **SECTION 19. LICENSE DENIAL – COMPANY**

A. A bail bond company license shall not be issued or renewed, and may be revoked, if any owner, partner, stockholder or officer:

1. Has been convicted of a felony or any offense involving moral turpitude;
- 2.. Is regularly or frequently employed by:
  - (a) A court of law; or
  - (b) A public law enforcement agency;
3. Is an attorney licensed by the State of Arkansas or an employee of an attorney;
4. Is a person or entity found by the Board to be incompetent,

untrustworthy, financially irresponsible or of doubtful personal and business reputation;

5. Is a person or entity whose license has been previously revoked.

B. A company owner having knowledge that another licensee has committed a violation of these rules or any statute regulating bail bonds, bail bondsman or bail bond companies, or has been convicted of a felony or other offense which would disqualify the licensee from holding such license shall promptly notify the Board

### **17-19-204. Examination.**

In order to determine the competence of each applicant for a professional bail bondsman license, the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board shall require every individual to submit to, and to pass to the satisfaction of the board, a written examination to be prepared by the board and appropriate to the transaction of bail bond business.

Such an examination shall be held in a location and at such times as the board shall determine.

Every individual applying to take a written examination shall, at the time of applying therefor, pay to the board a nonrefundable examination fee of twenty-five dollars **(\$25.00)**.

If the application is approved, and if the nonrefundable examination fee is paid, an examination permit will be issued to the applicant. The permit will be valid for a period of ninety **(90)** days from the date of issuance. If the applicant does not schedule and appear for examination within that ninety- day period, the permit shall expire and the applicant may be required to file a new application, and shall pay another nonrefundable examination fee of twenty-five dollars (\$25.00) before issuance of another examination permit to the applicant.

If the applicant appears for examination but fails to pass the examination, the applicant may apply for reexamination. The reexamination fee shall be a nonrefundable fee of fifteen dollars **(\$15.00)**. The board may require a waiting period of eight (8) weeks before reexamination of an applicant who twice failed to pass previous similar examinations.

### **SECTION 35. EXAMINATIONS**

After a person passes the examination for licensure, he shall have **one (1)**

**year** from the date the examination result is certified to apply for a license. If he applies for a license more than one (1) year from the date the examination result is certified, he shall be required to retake and pass the examination before a license can be issued.

### **17-19-212. Licenses.**

Each applicant for an initial bail bondsman license who satisfactorily completes the examination and meets the other qualifications and requirements prescribed by law, including the completion of a minimum of eight (8) hours of education in subjects pertaining to the authority and responsibilities of a bail bondsman and a review of the laws and regulations relating thereto, shall be licensed by the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board.

### **17-19-207. Expiration and renewal.**

(a) Every license issued pursuant to this chapter shall be for a term expiring on **December 31** following the date of its issuance, and it may be renewed for the ensuing calendar year upon the filing of a renewal application.

(b) The Professional Bail Bond Company and Professional Bail Bondsman Licensing Board may refuse to renew a license for any cause for which issuance of the original license could have been refused or for the licensee's violation of any of the provisions of this chapter or the rules and regulations of the board.

(c) Every licensee shall be required to file a renewal application, the form and subject matter of which shall be prescribed by the board.

At the time of application for renewal of a professional bail bond **company** license, there shall be paid to the board for the company's renewal license a fee of one thousand dollars **(\$1,000)**.

Each professional bail **bondsman** shall pay a fee of one hundred dollars **(\$100)** for renewal of the license, except that if the applicant for renewal also holds a professional bail bond company license, then the applicant shall not be required to pay a renewal fee for a professional bail bondsman license.

## **17-19-401. Requirements.**

(a) Each person licensed as a professional bail bondsman shall annually complete not less than **six (6) hours of continuing education** in subjects relating to the authority and responsibilities of a bail bondsman as a condition of renewing his or her license.

The continuing education shall not include written or oral examinations.

## **17-19-107. Exception to education requirements.**

Any licensed professional bail bondsman who is sixty-five **(65)** years of age or older and who has been licensed as a bail bondsman for fifteen **(15)** years.

## **SECTION 18. LICENSE RENEWAL, CONTINUING EDUCATION REQUIRED**

A. All Professional Bail Bond Company licenses issued pursuant to Ark. Code Ann. §17-19-101 et. seq. expire on December 31 of every year. Renewal of professional bail bond company and professional bail bondsman licenses is required prior to December 31 to prevent expiration.

B. Every Arkansas licensed bail bond company shall submit its renewal packet by December 1 of each year to ensure renewal of both the company license and the bail bondsman licenses by January 1 of the next year.

C. Renewal packets received after December 1 will be processed; however, a penalty of one hundred dollars (\$100.00) per day will be assessed until the packet is received, beginning December 2 and continuing through December 31.

D. Company and bondsman renewal applications received after December 15 but prior to December 31 will be processed on the corresponding day in January of the following year. (Example: Packet received December 16 will be processed on January 16 of next year). No bonds shall be issued by any company or bondsman after December 31 until the new license is issued and received by the bond company/bondsman.

E. Renewal applications for a Professional Bail Bond Company or for a Professional Bail Bondsman license received after December 31 will be treated as applications for initial license. All applicants will be treated as

applicants for a new license and will have to complete the entire licensing process.

F. Licensees shall annually complete not fewer than six (6) hours of continuing education courses presented by a Board approved provider.

G. Bondsmen who fail to complete the required continuing education program will not be re-licensed for the upcoming year. Those bondsmen desiring to have their licenses reinstated must attend a continuing education class offered in the current licensing year before a license will be issued. A second continuing education class must be attended in order for the bondsman to obtain a license for the following year.

### **17-19-402. Establishment of program - Schedule of fees.**

The Professional Bail Company and Professional Bail Bondsman Licensing Board on an annual basis shall solicit proposals from education providers.

Upon review of the proposals, the Board shall designate an entity or entities to establish an educational program for professional bail bondsmen that will enable bail bondsmen to meet the pre license and continuing education requirements of § 17-19-212 and § 17-19-401 et seq.

The Board shall establish a schedule of set fees to be paid by each bail bondsman for educational training.

### **SECTION 17. TRANSFER OF BAIL BONDSMAN LICENSE**

A bail bondsman who desires to transfer his license from one company to another shall:

- A. Pay a transfer fee of two hundred fifty dollars (\$250) to the board; and
- B. File with the board:

(i) A sworn affidavit stating that all premiums, fees, and powers of attorney owed to or issued by the company from which the bail bondsman is transferring his or her license have been delivered to the company;

(ii) A letter of resignation addressed to the company from which the bail bondsman is transferring or a letter of termination

addressed to the bail bondsman from the company terminating the bail bondsman's appointment;

(iii) A completed bail bondsman application on forms prescribed by the board;

(iv) A completed company statement from the company to which the bail bondsman desires to transfer his or her license; and

(v) An original qualifying power of attorney issued by the company to which the bail bondsman desires to transfer his or her license.

C. Upon receipt of a request for transfer of a bail bondsman license, the transfer fee and the documents specified in (B) above, the board shall forward copies of the letter of resignation, if applicable, and the sworn affidavit of the bail bondsman to the company from which the bail bondsman desires to transfer his or her license.

D. Upon receipt of the documents specified in (C) above, the company from which the bail bondsman is transferring shall have seven (7) business days in which to contest the bail bondsman's sworn statement.

E. A company contesting a bail bondsman's sworn statement shall file a written complaint on forms furnished by the board setting out in detail the property the company denies the bail bondsman has returned.

F. Any documents supporting the complaint that shall be offered as evidence to prove the complaint shall be attached to the complaint.

G. Upon receipt of the complaint, the executive director shall set the matter for an informal hearing to be held within seven (7) days of receipt of the complaint and notify the company filing the complaint and the bail bondsman by certified mail, return receipt requested, of the date, time and location of the informal hearing.

H. Either party may appeal the decision of the executive director to a formal hearing before the board by filing a written notice of appeal with the board within seven (7) days of receipt of the executive director's decision.

I. No transfer of a bail bondsman's license shall be effective prior to the expiration of the seven (7) day period for contesting the transfer

request unless the company from which the bail bondman is requesting a transfer shall notify the board it has no objection to the transfer, in which case the transfer may be entered prior to the expiration of the seven (7) day period.

(i) If no complaint contesting the bail bondsman's transfer is received during the seven (7) day contest period, the license shall be transferred as requested.

(ii) A company that does not contest the sworn affidavit of a transferring bail bondsman is not precluded by the failure to contest the sworn affidavit from filing a complaint that alleges a violation of the applicable statutes, rules, by the transferring bail bondsman upon discovery of the alleged violation by the company.

J. If the allegations of a complaint contesting the transfer are found to have been established, no transfer of the license shall be accomplished until the bail bondsman accounts for, returns, or pays to the professional bail bond company contesting the transfer the property or money issued to or held in a fiduciary capacity by the bail bondsman.

(i) If a complaint contesting the transfer is filed, a specific finding of fact shall be made concerning whether the affidavit or complaint contesting the affidavit was filed in good faith by the respective parties.

(ii) In the case of a finding of a lack of good faith, the party to whom the finding applies shall be subject to sanctions or disciplinary action pursuant to the provisions of Ark. Code Ann. Section 17-19-210 and as provided by applicable rules.