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**Bail Bond Education**  
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## **The Professional Bail Bondsman 2023**

### **Arkansas Statute 17-19-301** **Premium**

With the inception of the Arkansas Professional Bail Bond Licensing Act which went into effect in 1987, Arkansas bail bond companies and agents have had the **discretion** to collect any **amount** of the designated ten (10) percent premium deemed appropriate.

#### **Arkansas Statute 17-19-301. Premiums**

The premium or compensation for giving bond or depositing money or property as bail on any bond shall be **ten percent (10%)**.

There was **no prescribed maximum or minimum amounts. Credit bonding was in vogue.**

#### **Dissatisfaction of the Judiciary** **Law Enforcement,**

- 1) Collecting little or nothing of the required premium**
  - 2) Inmates shopping bail bond agents**
  - 3) Discounting of the premium itself.**
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## Credit-bonding practice coming to light in court *Firms charging as little as 1% upfront*

BY JOHN LYNCH  
ARKANSAS DEMOCRAT-GAZETTE

A Pulaski County prosecutor said she plans to start warning judges that defendants can post big bonds without having to immediately put up the staterequired 10 percent.

After hearing Deputy Prosecuting Attorney Barbara Mariani's concerns about the practice of credit bonding Thursday, Circuit Judge Willard Proctor Jr. ordered a Little Rock murder suspect to post \$25,000 in cash if he hopes to get out of jail before trial.

State law requires a bonding company to charge defendants 10 percent of the total bail, making the cost of a \$250,000 bond \$25,000.

Discounts are against the law, but credit bonding is legal and allows defendants to pay upfront only a portion of the 10 percent requirement, known as a premium, Mariani told Proctor. Defendants then pay off the difference over time. The upfront portion can be as little as 1 percent, Mariani said.

Bail is intended as a financial guarantee that a defendant will show up for court if released from jail. A bond is the legal agreement to secure the guarantee.

Higher bonds are more effective at ensuring defendants come to court, Mariani said.

"You are much more likely to show up if you've got \$25,000 riding on it rather than just \$1,000," she said.

Bond costs also are an issue for defendants with public defenders.

"If someone makes a \$250,000 bond, why is the public still paying for an attorney?" Mariani said.

Defendants who qualify for a public defender have to claim indigence, she said. For instance, a defendant with a public defender making \$400 monthly payments to a bondsman could instead use those funds toward a private attorney, she said.

Mariani said she doesn't know how widespread the creditbonding practice is or how many Pulaski County judges are aware of it, but she plans to make bond costs for defendants an issue at future hearings.

"It's a common practice" among the 56 companies licensed and regulated by the state's Professional Bail Bond Company and Professional Bail Bondsman Licensing Board, said Tommy Reed, executive director of the eight-member board. The board also regulates



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10 to the person.

11

12 SECTION 237. Arkansas Code § 17-1-103(d)(1), concerning registration,  
13 certification, and licensing for criminal offenders and evidence of  
14 rehabilitation, is amended to read as follows:

15 (1) Probation, or parole, or post-release supervision; and

16

17 SECTION 238. Arkansas Code § 17-19-301(a), concerning premiums for  
18 bail bonds, is amended to read as follows:

19 (a)(1) With the exception of other provisions of Except as provided in  
20 this section, the premium or compensation for giving bond or depositing money  
21 or property as bail on any bond shall be ten percent (10%), except that the  
22 amount may be rounded up to the nearest five-dollar amount.

23 (2)(A) The premium or compensation under subdivision (a)(1) of  
24 this section shall be deposited in full prior to release.

25 (B) In no event shall all or a portion of the premium or  
26 compensation under subdivision (a)(1) of this section be deposited after  
27 release.

28 (3) If property is deposited as bail to meet the premium or  
29 compensation under subdivision (a)(1) of this section, appropriate  
30 documentation shall be submitted to the court verifying:

31 (A) The value of the property deposited as bail; and

32 (B) That title to the property has been transferred to the  
33 surety.

34



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**The Premium shall be Deposited in Full Prior to Release.**

- **Credit Bonding disallowed !**
- **Collateral** is now a misnomer / **“Financing”**
- **No promissory note as it is associated with financing**

**Collateral** can only secure the **bail bond liability.**

- ❖ **If property is deposited as bail to meet the premium....**
  - ❖ **Appropriate documentation / court verifying:**
    - ✓ **The value of the property**  
**That title to the property has been transferred to the Surety.**
    - ✓ **Deed to Real Property**
    - ✓ **Bill of Sale to Personal Property**
    - ✓ **Title to Personal Property / Car, etc.**
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**Question: a person signs over their vehicle for the premium. Then after they get out they're able to come up with the amount of the fee to buy their vehicle back. Obviously we're going to sell it to first come first serve but if the bond customer is the person buying it does that in some way violate?**

**Answer: Looks awfully suspicious ! I would think it depended upon the actual value of the vehicle and amount of time elapsed. If the vehicle is worth \$7,000. And the premium was \$2,500, and the resale price back to the client was \$2,500, definitely appears to be financing. If the sales price is reasonably close to the actual value, say \$5,000, then it would seem to be a legitimate transaction.**

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### **Property deposited to meet premium:**

1. **How Does the Agent get Paid ??**
2. **Company holding title to personal property can be subject to liability if property is involved in an accident, i.e Car, etc.**
3. **Property is sold for a profit, whose profit ?**
4. **Property is latter sold back to client on an installment promissory note ?**  
**Sounds like Financing !**

### **Summary:**

**Appears to be an unworkable alternative**

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**Question: Someone doesn't have the full 10% but they have a house?**

**Answer: If you take property as payment for the premium, the company has to take "Title" to the property (real or personal) and I am sure this is not the intention of any of the parties; How does the Agent get his commission? There is no money in the transaction; an unworkable alternative. The defendant needs to go to a bank, etc and borrow the amount needed for premium with the house as collateral.**

**You can take house as collateral for the bond liability (as always) but not the premium amount.**

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### **Scenario: Whose Money ?**

**Property is taken as payment for premium, title is transferred to the Bail Bond Company, Real or Personal (as required) and the Company provides adequate documentation to the Court that the property taken as payment for the premium is adequate. The property is later sold by the Bail Bond Company for more than the premium.**

**Question: Whose money is the excess ? Does the profit belong to the Company or must be paid back to the Defendant? Answer: There is a complete transfer of title, no lien, the property is the sole property of the Company and any profit belongs to the Company.**

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**January 1, 2024**

- **Credit Bonding disallowed !**
  - **No getting the inmate out of jail, little down**
  - **No inmate shopping around.**
  - **No discounting of bail bond premium**
  - **Payment of 10% premium collected prior to release !**
  
  - **Concerns:**
    - **Credit bonding / Guise of a Finance Company**
      - **Must be legitimate transaction**
      - **State recognized 3<sup>rd</sup> Party Finance Co.**
      - **Legally binding Obligation**
  
    - **Taking Property for Premium**
      - **Selling back to client on an installment basis, definitely financing.**
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## The Professional Bail Bondsman 2023

### ➤ Compliance:

#### ➤ Judiciary:

➤ “If property is deposited as bail to meet the premium, appropriate documentation shall be submitted to the court verifying:

➤ The Value of the property; and

➤ That Title to the property has been transferred to the surety.

A District Court / Circuit Court may suspend a bail bond company’s or agent’s ability to issue bonds in its court if the bail bond company or agent fails to comply with an order of the court” (or meet a statutory required condition, i.e 10% premium)

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**16-84-201. Action on bond in district courts.**

(a)(1)(A) If the defendant **fails to appear** for trial or judgment, or at any other time when his or her presence in district court may be lawfully required, or to surrender himself or herself in execution of the judgment, the district court may direct the fact to be entered on the **minutes** and shall **promptly** issue an order requiring the surety to appear, on a date set by the district court not more than **one hundred twenty (120) days** from the **date notice is sent by certified mail** to the **surety company at the address shown on the bond**, whether or not it is received by the surety, to show cause why the sum specified in the bail bond or the money deposited in lieu of bail should not be forfeited.

(B) The one-hundred-twenty-day period in which the defendant must be surrendered or apprehended under subdivision (c)(2) of this section begins to run from the date notice is sent by certified mail to the surety company at the address shown on the bond, **whether or not it is received by the surety.**

(2) The order shall also require the officer who was responsible for taking of bail to appear unless:

(A) The surety is a bail bondsman; or

(B) The officer accepted cash in the amount of bail.

(b) The appropriate **law enforcement** agencies shall make every **reasonable effort to apprehend the defendant.**

(c)(1) If the defendant is **surrendered** or **arrested**, or good cause is shown for his or her failure to appear **before judgment** is entered against the surety, the district court shall **exonerate a reasonable amount of the surety's liability** under the bail bond.

(2) However, if the surety causes the apprehension of the defendant or the defendant is apprehended within one hundred twenty (120) days from the date notice is sent by certified mail to the surety company at the address shown on the bond, whether or not it is received by the surety, a judgment or forfeiture of bond may not be entered against the surety, except as provided in subsection (e) of this section.

(d) If **after one hundred twenty (120) days** from the date notice is sent by certified mail to the surety company at the address shown on the bond, whether or not it is received by the surety, the **defendant** has not **surrendered** or been **arrested**, the **bail bond** or money deposited in lieu

**16-84-207. Action on bail bond in circuit courts.**

(a) If a bail bond is granted by a judicial officer, it shall be conditioned on the defendant's appearing for trial, surrendering in execution of the judgment, or appearing at any other time when his or her presence in circuit court may be lawfully required under Rule 9.5 or Rule 9.6 of the Arkansas Rules of Criminal Procedure, or any other rule.

(b)(1) If the defendant **fails to appear** at any time when the defendant's presence is required under subsection (a) of this section, the circuit court shall enter this fact by written order or docket entry, adjudge the bail bond of the defendant or the money deposited in lieu thereof to be **forfeited**, and issue a warrant for the arrest of the defendant.

(2) The circuit clerk shall:

(A) **Notify** the sheriff and each **surety** on the bail bond that the defendant should be surrendered to the sheriff as required by the terms of the bail bond; and

(There is mention of the **means of notification** as in the District's Court requirement of certified mail, notification could even be given orally or by any means. Best to view the time as the date of nonappearance)

(B) **Immediately issue a summons on each surety** on the bail bond requiring the surety to personally appear on the date and time stated in the summons to **show cause why judgment should not be rendered** for the sum specified in the bail bond on account of the forfeiture.

(c)(1)(A) If the defendant is apprehended and brought before the circuit court within **seventy-five (75) days** of the **date notification** is sent under subdivision (b)(2)(A) of this section, then **no judgment** of forfeiture may be entered against the surety.

(B) The **surety shall be liable for the cost of returning the defendant** to the circuit court in an amount **not to exceed the face amount of the bond**.

(2)(A) If the defendant is apprehended and brought before the circuit court **after the seventy-five-day period** under subdivision (c)(1) of this section, the circuit court may **exonerate** the amount of the surety's liability under the bail bond as the circuit court determines in its **discretion** and, if the surety does not object, enter judgment accordingly against the surety.



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## **The Professional Bail Bondsman 2023**

➤ **Compliance:**

➤ **Arkansas Professional Bail Bond Board:**

“The Board shall have the **authority and responsibility** to administer and enforce the provisions of this chapter....

“The Board shall have the authority to adopt and enforce such **reasonable rules and regulations** as it shall determine to be necessary.....

**The Professional Bail Bond Licensing Board, may:**

1. **Suspend** up to **twelve (12) months**
  2. **Revoke any license**
  3. **Impose an administrative penalty not to exceed \$10,000.**
  4. **Impose both a suspension and administrative penalty.**
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### ➤ **Compliance:**

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- 2. Revoke any license**
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- 4. Impose both a suspension and administrative penalty.**

**“Well the Board is not going to do anything, or will show favoritism”**

**The Arkansas Attorney General acts as the Lawyer for the Board and serves as the Prosecutor in Board Hearings. The AG’s office was instrumental in passing the 10% full premium collection.**

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### **Bail Bond Suspension of Bail Bond Company:**

**There has been talk that the Board's suspension of a Company will not hold up on appeal to the Circuit Court of Pulaski County as the Court would not punish innocent agents of the Company for the violation of one agent. Perhaps this is so, and will be the case for the first appeal by the Company or even the second appeal.**

**But if it appears this is the "Modus Operandi" (a particular way of doing something) of the Company, judging by the number of appeals of the same issue (premium financing), the appeal may not be so successful (in the long run).**

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**Arkansas Bail Bond Laws Face Major Changes in 2024:  
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