



State of Utah

GARY R. HERBERT
Governor
SPENCER J. COX
Lieutenant Governor
TODD E. KISER
Commissioner

Insurance Department

Bail Bond Surety Oversight Board Meeting

(<https://insurance.utah.gov/licensee/other/bail-bond/board>)

Date: August 14, 2019

Time: Noon

Place: East Building, Copper Room

BOARD MEMBERS

xClay Carlos (Chair)	xBonnie Johnson
xDominic Sanone (Co-Chair)	xTony Choate
xLt. Ken Jones	xCurt Oda
Chad Woolley	xReed Stringham (Non-Voting)

DEPARTMENT STAFF

xTodd Kiser, <i>Ins. Commissioner</i>	xTracy Klausmeier, <i>P&C Director</i>	xCathy Burton, <i>Examiner</i>
xPatrick Lee, <i>Finance Director</i>	xPerri Babalis, <i>Assistant AG</i>	xHelen Frohlich, <i>Assistant AG</i>
xSteve Gooch, <i>PIO Recorder</i>		

PUBLIC

Gerald Conder	Richard C. Rose	Ali Jensen
Amanda Garcia	Mike Baucum	Christie Ellis
Stephanie Kramer	Nate Simkins	Kathleen Morgan
Richard Beard	Vivian White	Ryan Cooper
Melody Jenkins	Gordon Wright	Todd Harris
Oscar Gonzalez	Roger Hayes	Wayne Carlos
Edward Wells	Kate Taylor	

MINUTES — Not Approved

- **General Session (Open to the Public)**
 - Welcome / Clay Carlos, Chair (12:08 pm)
 - Administer oath of office to new board member / Cathy
 - Bonnie Johnson
 - Recognize Ryan Cooper's service to the Bail Bond Board / Commissioner Kiser
 - Commissioner Kiser thanks Ryan for his 8 years of service on the Bail Bond Surety Oversight Board. He served from July 1, 2011 to June 30, 2019 and did a lot for the board and the industry.
 - Adoption of Minutes for April 10, 2019 meeting
 - **Motion by Curt to adopt minutes. Seconded by Tony. Motion passes 6-0.**
- **Executive Session - If Needed (Closed to the Public)**
- **General Session (Open to the Public)**
 - **Approve Recommended Actions from Executive Session** – Not needed
 - **Summary of Reports / Cathy**
 - Bail Fund Balance

- Patrick Lee says that the report is for fiscal year 2019, which ran from July 1, 2018 to June 30, 2019. The fund started with \$39,913.63, collected \$7,500 in revenue, and expended \$11,164.29, which leaves a balance of \$36,249.34. Already in fiscal year 2020, the account has collected \$5,000 in revenue. Clay asks if that \$5,000 is from renewals. Patrick and Cathy say yes.
- Completed Investigations
 - There are no completed investigations at this time.
- Annual Bail Bond Agency Renewals
 - The Agency Recommendation page shows the agencies that are renewing, with the exception of one that hasn't paid the Sircon fee and so their license will lapse. The others have met the requirements for renewal and the board needs to make a decision on them. Wayne Carlos asks what the official lapse date will be. Cathy says August 14.
 - Clay asks if the Board needs to make individual recommendations, or if they can do them all at once. Tracy says either way works. Curt says if there are no issues with any of them, they could do the whole thing. If anyone has a problem with one, they could approve the others and then just discuss that one. Clay says if everyone's fine with Cathy's recommendations to renew everyone, they should do it in one batch.
 - **Motion by Curt to approve the list of renewals in its entirety. Seconded by Dominic. Motion passes 6-0.**
 - Dominic notes that most licenses expire today and asks if everyone is OK. Cathy says yes. The minute she leaves the meeting she'll get everything taken care of with Producer Licensing.
- New Applications
 - Freedom Bail Bonds of Utah is the new application. Producer Licensing has no concerns regarding the name or anything else. Daniel Reed Hart is the owner. He has had a license since August 2018. He has no judgments or felonies. Cathy has a letter from Aladdin Bail Bonds verifying that Daniel has more than 2,000 hours, and actually has 4,559.25 hours. He was associated to Aladdin on August 10, 2018. Cathy has a qualifying power of attorney from Bankers, Daniel has filed his articles of organization, and Cathy has Freedom Bail Bonds of Utah's EIN. It has been licensed with the Department of Commerce, Herriman City, and he has an operational account set up with a Utah bank. HE has elected to not do a trust account or take cash collateral. Dominic asks if Bankers has any records of forfeiture judgments. Cathy says she hasn't received any.
 - **Motion by Dominic to approve Freedom Bail Bonds of Utah. Seconded by Tony. Motion passes 6-0.**
- **New Business**
- **Old Business**
- **Other Business**
 - Annual board member training / Perri
 - The Open and Public Meetings Act requires annual training for all State boards and commissions. The Act ensures that the State's business is done in an open manner.
 - Public bodies must give notice of meetings at least 24 hours in advance. The agenda must be specific and set forth what will be discussed and what action will be taken. Public bodies may discuss items the public brings to them, but action cannot be taken

unless it was specifically stated on the agenda. Steve does most of these things, including providing notice and posting meetings to the public notice website.

- Public bodies are required to keep written minutes and a recording of the meeting. The recording must be posted within 3 days after the meeting, and a draft of the minutes must be posted within 30 days after the meeting. The approved minutes will be posted to the public notice website and the UID's website.
- All meetings are open unless there is a legal basis to close it. There are around 20 reasons to close a meeting. Meetings must be closed by majority vote and must state the reason for closing the meeting. Some of the reasons a meeting can be closed are: to discuss a person's character, competence or health; to discuss pending or imminent litigation; to discuss the acquisition or sale of real property; to discuss the deployment of security measures; to discuss the investigation of alleged criminal conduct; and to deliberate and make decisions involving procurement. Meetings must be closed when dealing with human services issues. A public body that closes a meeting is required to announce on the record and in the minutes the reason for closing the meeting. No action can be taken in the closed meeting — discussions can happen, but taking action requires the meeting to be reopened and voting to happen. Failure to do so is a violation of the law, and courts could undo the actions taken. Intentionally violating the Open and Public Meetings Act is a class-B misdemeanor.
- Emergency meetings can happen and do not require the 24 hour notice. However, action must be taken to notify the board and as much of the public as possible.
- Electronic meetings can only happen if the board has rules governing them. The Bail Bond Board does.
- A quorum means the majority of the body. Any time a quorum of members is together, it constitutes a meeting and must be noticed. If most of the members of the board are out in the hallway talking together, that's a meeting.
- If an error was made in posting the meeting, like if it wasn't noticed 24 hours ahead of time, the meeting must be rescheduled. It can't be classified as an emergency meeting — those are only in the case of a true emergency.
- If an error was made, like taking action on an item that wasn't on the agenda, the action must be revoted on at the next meeting. The general idea is that if you think you did it wrong, do it again and do it right.
- Perri suggests that everyone read through the board member handbook. It's provided by the Governor's Office to every board in state government. Boards are generally made up of people in the industry that they oversee. Pages 16-19 have information on the Ethics Act and conflicts of interest. Page 18 lists different approaches that can be taken when there's a perceived conflict. It's the individual's responsibility to notify the board that they may have a conflict. They can then either step out of the room, be part of the room and step out during the vote, or be involved in the whole process. There's no specific law about which route to take. Perri says there used to be conflict of interest forms that board members filled out. Reed notes that it's just a disclosure requirement: If the board members thought, for instance, that Curt had a conflict, but he didn't agree, then he could stay in and vote and there's nothing to do about it. Perri says that's what it seems to suggest. However, if the whole board thought someone had a conflict, it should be raised but it's still the person's call. Curt says he doesn't remember a conflict of interest form and asks if that's something the board should do.

He notes that public officials have to fill out a conflict of interest form at the beginning of each year. That way, if you forget to disclose it, it's already been disclosed. Perri notes that the Employee Ethics Act, all public officers must disclose their conflicts in writing. She says there's a form that we can find and provide. She believes that everyone on the board would fit within the term "public officer." Curt thinks doing the form is a good idea. Reed suggests having Perri find the form and send it out.

- **Motion by Curt to have Perri find and send out the form. Seconded by Dominic. Motion passes 6-0.**
- Return to minutes / Curt
 - On page 2, there was discussion about publishing a rule having to do with financial reviews done by a CPA. He thinks Reed was going to do a draft of the rule and send it to everyone. He doesn't remember seeing it. Clay doesn't think they'd decided to make that happen. Reed doesn't either. Curt clarifies that he thinks there was a rule change. Dominic says the conclusion was that there needed to be a standard, and the CPA was the standard. Clay says the issue was that nobody was a CPA and wasn't qualified to make the assessments that Gordon was worried about his CPA doing. IT puts the onus on a CPA, not someone in the UID. Steve says it was about proposed changes to R590-186, and the rule was made effective June 21, and he sent notice out when he filed the rule. Curt says he never saw it and asks Steve to send it out again.
 - On page 3, the chair asked how the account was funded, and that Patrick said it's listed in the statute. Curt asks if it's nonlapsing. Clay asked during the April meeting and said he thinks it does carry over. Curt requests that it be included in the minutes for today.
 - Going back to R590-186, Steve notes that the initial notice of proposed rule was sent on May 2. The notice of it being made effective was sent on June 21.
 - Commissioner Kiser recollects that the funds don't lapse, but there's never enough money to cover Cathy's salary and the UID ends up subsidizing it without raising agency fees. He thinks if we didn't spend it, it would lapse back to the general fund.
 - *Commissioner Kiser requested that the following information be added to the minutes, which was confirmed after the meeting by Patrick Lee: "In response to board member Curtis Oda's question relating to the status of the account, the Bail Bond Surety Administration Account does not have statutory nonlapsing authority. Despite this, the expenditures within the account have not exceeded the general appropriation from the legislature in any prior years and, as such, nonlapsing authority has not been needed nor requested."*
 - Clay says ideally we'd want to match the traditional usage of the account with the revenue that comes in from licensing. Commissioner Kiser says that's correct.
- Elect new chair and co-chair
 - **Motion by Tony for Clay to continue as chair. Seconded by Curt.**
 - **Motion by Clay for Dominic to continue as co-chair. Seconded by Tony.**
 - **Both motions pass 6-0.**
- **Adjourned** (12:44 pm)
 - **Motion by Curt to adjourn. Seconded by Dominic. Motion passes 6-0.**
 - **Next Meeting:** October 9, 2019 — Copper Room, East Building

2019 Meetings (Noon to 1:30pm)

Jan 9, 2019	Apr 10, 2019	August 14, 2019	Oct 9, 2019
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