

Utah Insurance Department

Proposed changes to requirements for initial and renewal license applications

October 14, 2020

At the August 12, 2020 meeting of the Bail Bond Oversight Board, the Insurance Department presented proposed changes to Utah Code § 31A-35-406. The changes did two things: (1) clarified the beginning and end date for the time period in which an agency's principal must attend a Board meeting; (2) changed the way to report compliance with this requirement. The Board and meeting attendees did not object to those changes.

The Department now proposes additional changes to the bail laws. The changes involve § 31A-35-404, minimum financial requirements for bail bond agency license. The changes also involve § 31A-35-406, license renewal and reinstatement. The texts of those statutes and their changes, along with an explanation of them, are set forth below. This does not include changes, if any, to the meeting attendance requirement § 31A-35-406(1)(a)(iii) that will be discussed at the October 14, 2020 meeting.

31A-35-404. Minimum financial requirements for bail bond agency license.

(1)

(a) A bail bond agency that pledges the assets of a letter of credit from a Utah depository institution in connection with a judicial proceeding shall maintain an irrevocable letter of credit with a minimum face value of \$300,000 assigned to the state from a Utah depository institution.

(b) Notwithstanding Subsection (1)(a), a bail bond agency described in Subsection (1)(a) that is licensed under this chapter as of December 31, 1999, shall maintain an irrevocable letter of credit with a minimum face value of \$250,000 assigned to the state from a Utah depository institution.

(c) A copy of the irrevocable letter of credit shall be submitted with an application for an initial or a renewal bail bond agency license.

Explanation of the changes in Subsection (1)

The changes mean that an agency backed by an irrevocable letter of credit must provide a copy of that letter with an initial and a renewal license application.

(2)

(a) A bail bond agency that pledges personal or real property, or both, as security for a bail bond in connection with a judicial proceeding shall maintain:

(i)

(A) a verified financial statement for the current year:

(I) reviewed by a certified public accountant; and

(II) showing a minimum net worth of [~~at least~~] \$300,000, at least \$100,000 of which is in liquid assets; or

(B) notwithstanding Subsection (2)(a)(i), if the bail bond agency is licensed under this chapter as of December 31, 1999, a verified ~~[current]~~ financial statement for the current year:

(I) reviewed by a certified public accountant; and

(II) showing a minimum net worth of ~~[at least]~~ \$250,000, at least \$50,000 of which is in liquid assets.

~~[-(ii) a copy of the applicant's federal and state income tax returns for the preceding two years, but only for an original application; and~~

~~(iii) for each parcel of real property owned by the applicant and included in net worth calculations:~~

~~(A) a title letter or report, or a current abstract of title from the office of the county recorder; and~~

~~(B) —~~

~~(I) a certified appraisal made not more than six months prior to licensure for each parcel and a title report that is current as of the date of licensure, if the bail bond agency is in its first year of licensure and has pledged real property owned by the applicant; or~~

~~(II) a certified appraisal report or a current tax notice and a title letter or report, or a current abstract of title from the county recorder if the bail bond agency is in its second or subsequent year of licensure and has pledged real property owned by the applicant.]~~

(b) For purposes of this Subsection (2), only ~~[real or]~~ personal or real property located in Utah may be included in the net worth of the bail bond agency.

(c) The financial statement required by this Subsection (2) shall be submitted with an application for an initial or a renewal bail bond agency license.

Explanation of the changes in Subsection (2)

The changes mean that a property-backed agency must submit with an initial or a renewal license application a verified financial statement that has been reviewed by a C.P.A. The financial statement must show that the agency meets the applicable net worth and liquid asset requirements. A financial statement is "verified" if the agency owner has sworn that its contents are accurate.

The changes also mean that a property-backed agency will no longer be required to submit:

- *Tax returns;*
- *Title letters or reports;*
- *Abstracts of title;*
- *Appraisal reports;*
- *Tax notices.*

(3)

(a) A bail bond agency shall maintain a qualifying power of attorney issued by a surety insurer if:

~~(a)~~i) the bail bond agency is the agent of the surety insurer; and

~~(b)~~ii) the surety insurer:

~~(i)~~A) sells bail bonds;

~~(ii)~~B) is in good standing in its state of domicile; and

([###]C) is granted a certificate to write bail bonds in Utah.

(b) A copy of the qualifying power of attorney shall be submitted with an application for an initial or a renewal bail bond agency license.

Explanation of the changes in Subsection (3)

The changes mean that an agency backed by a surety insurer must provide a copy of the qualifying power of attorney with an initial and a renewal license application.

(4) A bail bond agency shall separately maintain records from which the commissioner may determine whether the agency complies with the bonding limits of this Subsection.

(a) A bail bond agency that maintains a qualified power of attorney from a surety insurer may not maintain outstanding bail bond obligations in excess of the amount allowed by the surety insurer.

(b) A bail bond agency that pledges the assets of a letter of credit shall maintain a ratio of no greater than 5:1 between outstanding bond obligations and the credit limit.

(c) A bail bond agency that pledges personal or real property, or both, shall maintain a ratio of no greater than 5:1 between outstanding bond obligations and:

(i) net worth reported in the financial statement under Subsection (2)(a)(i); and

(ii) liquid assets reported in the financial statement under Subsection (2)(a)(i).

(d) Notwithstanding Subsections (4)(b) and (c), the permissible ratio is 10:1 for a bail bond agency licensed over 36 months that pledges:

(i) the assets of a letter of credit; or

(ii) the assets of personal or real property with a minimum net worth of \$300,000, at least \$100,000 of which is liquid assets.

(e) The commissioner may reduce the bonding limit ratio in Subsection (4)(d) if a bail bond agency fails to meet the requirements of Subsections (1) or (2)(a).

Explanation of the changes in Subsection (4)

The changes mean that a bail bond agency is required by statute to comply with bonding limits now in rule at Utah Admin. Code R590-186-8.

(45) The commissioner may revoke the license of a bail bond agency that fails to maintain the minimum financial requirements required under this section.

(56) The commissioner may set by rule the limits on the aggregate amounts of bail bonds issued by a bail bond agency.

31A-35-406. Initial and ~~R~~renewal license and reinstatement.

(1) An applicant for an initial bail bond agency license shall:

(a) complete and submit to the department an application;

(b) submit a current irrevocable letter of credit, a verified financial statement reviewed by a certified public accountant, or a current qualifying power of attorney, as applicable, as required by Section 31A-35-404(1), (2) or (3); and

(c) pay the department the applicable initial license fee established in accordance with Section 31A-3-103.

~~([1] 2) [(a)]~~ A license under this chapter expires annually effective at midnight on August 14. To renew its license under this chapter, on or before July 15 a bail bond agency shall:

~~([1] a)~~ complete and submit to the department a renewal application ~~[to the department;]~~ that includes the following:

~~(i)~~ a certification that a principal of the agency attended at least one board meeting during the twelve-month period prior to July 15; and

~~(ii)~~ a certification that, based on a review of the agency's books and records as of July 1, the agency complies with the bonding limits in Section 31A-35-404(4);

~~(b)~~ [require that a principal of the agency attends at least one board meeting each year; and] submit a current irrevocable letter of credit, a verified financial statement reviewed by a certified public accountant, or a current qualifying power of attorney, as applicable; and

~~([1] c)~~ pay the department the applicable renewal fee established in accordance with Section 31A-3-103.

~~(3)~~ An expired license may be reinstated within one year of expiration by:

~~(a)~~ completing the renewal license requirements; and

~~(b)~~ paying a license reinstatement fee established in accordance with Section 31A-3-103.

~~[(2) A bail bond agency may apply for reinstatement of an expired bail bond agency license within one year following the expiration of the license under Subsection (1) by:~~

~~(a) submitting the renewal application required by Subsection (1); and~~

~~(b) paying a license reinstatement fee established in accordance with Section 31A-3-103.]~~

~~[(3) 4]~~ An initial application is required ~~[+]if a bail bond agency license has been expired for more than one year[, the person applying for reinstatement of the bail bond agency license shall:~~

~~(a) submit a new application form to the commissioner; and~~

~~(b) pay the application fee established in accordance with Section 31A-3-103].~~

~~[(4) 5]~~ A suspended license may not be renewed~~[if a bail bond agency license is suspended, the applicant may not submit an application for a bail bond agency license until after the end of the period of suspension].~~

~~[(5) 6]~~ A fee collected under this section shall be deposited in the restricted account created in Section 31A-35-407.

Explanation of the changes in Section 31A-35-406

The changes mean:

(1) An agency must do the following to renew or reinstate a license:

- Submit an application in which it certifies attendance at a Board meeting and compliance with bonding limits;
- Submit a current irrevocable letter of credit, a verified financial statement reviewed by a certified public accountant, or a current qualifying power of attorney, as applicable; and
- Pay the licensing fee.

(2) An expired licensed may be reinstated for up to one year.

(3) A suspended license may not be renewed.