

DEPARTMENT OF REGULATORY AGENCIES

Division of Insurance

3 CCR 702-1

ADMINISTRATIVE PROCEDURES

Amended Regulation 1-2-14

CONCERNING BAIL BONDING AGENT RECORD KEEPING, REPORTING REQUIREMENTS AND DAILY BOND REGISTER

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Section 1 Authority

This regulation is promulgated and adopted by the Commissioner of Insurance under the authority of §§ 10-1-109, 12-7-102(3), 12-7-105, and 12-7-108, C.R.S.

Section 2 Scope and Purpose

The purpose of this regulation is to establish the requirements for a current and up-to-date bond register, prenumbered receipts, Executed Agreement and Disclosure Statements pursuant to the statutory provision in § 12-7-108, C.R.S.

Section 3 Applicability

This regulation shall apply to all cash bonding agents, professional cash bail agents, and surety agents that write bail bonds in the state of Colorado.

Section 4 Definitions

As used in this regulation, and unless the context requires otherwise:

- A. "Bail bonding agent" means any person who furnishes bail for compensation in any court or courts in this state and who is appointed by an insurer to execute or countersign bail bonds in connection with judicial proceedings and who is other than a full-time salaried officer or employee of an insurer or a person who pledges United States currency, a United States postal money order, a cashier's check, or other property as security for a bail bond in connection with a judicial proceeding, whether for compensation or otherwise and licensed as a surety agent, a cash bonding agent or professional cash bail agent as defined in § 10-2-407(1)(f), C.R.S.
- B. "Bail insurance company" -or "surety company" means an insurer as defined in § 10-1-102(13), C.R.S. engaged in the business of writing bail appearance bonds through bail bonding agents,

which company is subject to regulation by the Division of Insurance in the Department of Regulatory Agencies.

- C. "Daily Bond Register" means the current and up-to-date bond register required by § 12-7-108(3), C.R.S. that identifies every executed bond or undertaking taken by the bail bonding agent. The Daily Bond Register shall be maintained on the form prescribed in Appendix A of this regulation.
- D. "Disclosure Statement" means the form describing how collateral may be returned, how collateral may be used or forfeited and the physical address to which a copy of the court order releasing the bond shall be delivered. The Disclosure Statement shall be in the format contained in Appendix C of this regulation
- E. "Executed Agreement" or "Indemnity Agreement" means the agreement whereby the bail bonding agent agrees to post bond for a defendant.
- F. "Permanent office records" means records of all bail bonds the bail bonding agent executes or countersigns, executed copies of the Disclosure Statement, Executed Agreement/Indemnity Agreement and prenumbered receipt for each bond undertaking, the Daily Bond Register and any other records pertaining to transactions made under the bail bonding agent's license.
- G. "Prenumbered receipt" means a preprinted or embossed sequentially numbered receipt.

Section 5 Rules

A. Daily Bond Register

- 1. Each bail bonding agent shall maintain a current and up-to-date Daily Bond Register that identifies every executed bond or undertaking by the bail bonding agent as part of their permanent office records. The Daily Bond Register shall be maintained on the form prescribed in Appendix A of this regulation.
- 2. The form contained in Appendix A shall also be used for the annual report to the Division of Insurance required by § 12-7-105, C.R.S.
 - a. Annual reports covering the twelve-month period of July 1 of the prior calendar year through June 30 of the current calendar year are due no later than November 1 of each year, and must include the affidavit in the format contained in Appendix B.
 - b. All reports due to the Division of Insurance November 1, 2010 and each year thereafter, shall be filed in electronic format either by email to: filebailreport@dora.state.co.us, or via facsimile to: 303-869-0228. Paper reports will not be accepted by the Division of Insurance and will be rejected and returned to the bail bonding agent with instructions for proper filing. Any paper report that is rejected must be refiled electronically and must be timely filed as required by Section 5.A. Noncompliance with this requirement may result in sanctions against the bail bonding agent as set forth in Section 7 below.
 - c. If the bail bonding agent has not written any bail bonds during the twelve-month period of July 1 of the prior calendar year through June 30 of the current calendar year, Appendix B shall be completed and electronically filed with Appendix A stating "no bonds written".

B. Pre-numbered Receipts

1. Each bail bonding agent shall use prenumbered embossed receipts, including any power of attorney receipt or premium payment receipt, whenever money or any other consideration for a bond or undertaking is received by the bail bonding agent.
2. Each prenumbered embossed receipt shall contain the following minimum information:
 - a. The date the money or other consideration is received by the bail bonding agent (including any premium paid or collateral received);
 - b. The name of the defendant;
 - c. A description of the consideration or amount of money received;
 - d. The purpose for which the consideration or money was received;
 - e. The number of the bail insurance company power-of-attorney form attached to the bond (if applicable/available);
 - f. The penal sum of the bond;
 - g. The name of the indemnitor; and
 - h. The terms under which the money or other consideration shall be released.
3. The number of each prenumbered receipt shall be entered in the Daily Bond Register in sequential order.
4. The original prenumbered receipt shall be signed and dated by the bail bonding agent and given to the defendant or third party indemnitor.
5. A duplicate copy of the prenumbered receipt shall be retained in the bail bonding agent's permanent office records.
6. Bail bonding agents shall account for all prenumbered receipts in the Daily Bond Register, whether they were issued, destroyed or otherwise not used by the bail bonding agent.
7. If multiple bail bonds are written by the same bail bonding agent for the same defendant, the bail bonding agent must issue a pre-numbered receipt that conforms with this Section 5.B. for each bail bond written. Pre-numbered receipts, whether for premium or collateral, that are issued that do not reflect each bail bond as a separate transaction shall not be in conformance with this Section 5.B.

C. Executed Agreement/Indemnity Agreement

1. All Executed Agreements/Indemnity Agreements shall have the name, address, phone number and license number of the bail bonding agent preprinted or stamped on the form.
2. All Executed Agreements/Indemnity Agreements shall contain the following minimum information:
 - a. Amount of bail set in the case;

- b. The name of the defendant to be released on the bond;
 - c. The court case number;
 - d. The court in which the bond is executed;
 - e. The premium charged; and
 - f. The amount and type of collateral held by the bail bonding agent and the conditions under which the collateral will be returned.
3. The original Executed Agreement/Indemnity Agreement shall be maintained as part of the bail bonding agent's permanent office records and a duplicate copy shall be provided to the defendant or third party indemnitor.
 4. The Executed Agreement/Indemnity Agreement shall be signed and dated by the bail bonding agent and the defendant or third party indemnitor.
 5. If multiple bail bonds are written by the same bail bonding agent for the same defendant, the bail bonding agent must issue a pre-numbered receipt that conforms with this Section 5.B. for each bail bond written. Pre-numbered receipts, whether for premium or collateral, that are issued that do not reflect each bail bond as a separate transaction shall not be in conformance with this Section 5.C.

D. Disclosure Statement

1. The original Disclosure Statement shall not be altered, and must be issued, in the format contained in Appendix C.
2. The original Disclosure Statement shall be signed and dated by the bail bonding agent and the defendant or third party indemnitor.
3. The original Disclosure Statement shall be provided to the defendant or third party indemnitor for each bond posted, with a duplicate copy maintained in the bail bonding agent's permanent office records.
4. If multiple bail bonds are written by the same bail bonding agent for the same defendant, the bail bonding agent must issue a pre-numbered receipt that conforms with this Section 5.B. for each bail bond written. Pre-numbered receipts, whether for premium or collateral, that are issued that do not reflect each bail bond as a separate transaction shall not be in conformance with this Section 5.D.

E. Permanent Office Records

1. Pursuant to § 12-7-108(4), C.R.S., permanent office records must be maintained by each bail bonding agent for every undertaking or bond written under the bail bonding agent's license for:
 - a. Three (3) years immediately after the release of the bond; or
 - b. Three (3) years after the return of collateral to the defendant or third party indemnitor if collateral was taken; or
 - c. Three (3) years after notice to the defendant or third party indemnitor that the terms of any promissory note have been satisfied if promissory note(s) were

taken. Proof of notice shall consist of, at a minimum, a signed release by the defendant or third party indemnitor that they received the promissory note marked satisfied by the bail bonding agent and shall be maintained as part of the bail bonding agent's permanent office records.

2. Bail Bonding agents' permanent office records shall be open and available for inspection by the Commissioner or the Commissioner's designee upon reasonable notice during normal business hours.

Section 6 Severability

If any provision of this regulation or the application of it to any person or circumstance is for any reason held to be invalid, the remainder of the regulation shall not be affected.

Section 7 Enforcement

Noncompliance with this regulation may result, after proper notice and hearing, in the imposition of any of the sanctions made available in the Colorado statutes in Title 10, C.R.S., or § 12-7-106, C.R.S., which include the imposition of fines, issuance of cease and desist orders, and/or suspensions or revocation of bail bond licensure.

Section 8 Effective Date

This regulation is effective November 1, 2009.

Section 9 History

Originally issued as Emergency Regulation 04-E-6, effective July 1, 2004.

Emergency Regulation 04-E-8, effective July 23, 2004.

Emergency Regulation 04-E-11, effective October 21, 2004.

Regulation 1-2-14, effective December 1, 2004.

Regulation 1-2-14, effective November 1, 2009.

APPENDIX B



AFFIDAVIT

Yearly report July 1, 200 _____ through June 30, 200 _____

BAIL BONDING AGENT NAME: _____

STATE OF COLORADO

County of _____ ss.

I, _____, being first duly sworn, state that this report, is a complete, true and correct statement of my activities as a Bail Bonding Agent for the stated period.
(TYPEWRITTEN NAME OF BAIL BONDING AGENT)

I understand that any false, incomplete or deceptive representation herein constitutes good and sufficient cause for revocation of my producer license by the Colorado Division of Insurance.

I authorize any person to disclose to the Colorado Division of Insurance any information regarding bail bonds written by me and collateral accepted by me.

SIGNATURE OF BAIL BONDING AGENT

LICENSE NUMBER

DATE

Subscribed and sworn to before me this
_____ day of _____
_____ (Year)
My Commission Expires: _____

NOTARY PUBLIC

All reports shall be filed in electronic format either by email to: filebailreport@dora.state.co.us, or via facsimile to: 303-869-0228.

Paper reports will not be accepted by the Division of Insurance and will be rejected and returned to the bail bonding agent with instructions for proper filing.

Any paper report that is rejected must be refiled electronically and must be timely filed as required by Section 5.A of Division Regulation 1-2-14.

Noncompliance with this requirement may result in sanctions against the bail bonding agent

**APPENDIX C
DISCLOSURE STATEMENT**

(PREPRINTED or STAMPED NAME OF THE BAIL BONDING AGENT)
(PHYSICAL ADDRESS AND PHONE NUMBER OF THE BAIL BONDING AGENT OR AGENT FOR SERVICE OF PROCESS FOR DELIVERY OF THE BOND DISCHARGE)

Surety Company Name and address (if applicable): _____

Phone number of Surety Co.: _____

POA # from Surety Co. (if applicable/available) _____

Name of the Defendant: _____

Amount of Bail: _____

Amount of Premium Charged: _____

Name of Third Party Indemnitor: _____

Amount of Collateral: _____

Description of Collateral: _____

Court in which the bond is executed: _____

RE: COLLATERAL

In order to receive a return of your collateral from your bail bonding agent **you must deliver a copy of the court order resulting in a release of the bond by the court to the bail bonding agent or the surety company.** Pursuant to § 12-7-109(1)(d.5), C.R.S., your collateral must be returned within ten working days of such delivery to your bail bonding agent or the surety company. Pursuant to § 16-4-104(3)(a)(IV), C.R.S., your reconveyance of title, certificate of discharge, or a full release of any lien shall be provided within 30 days after receiving notice that the time for appealing an order that exonerated the bail bond has expired.

Bail bonding agents are regulated by the Colorado Division of Insurance. **TO ENSURE THE PROMPT RETURN OF YOUR COLLATERAL, THE DIVISION RECOMMENDS YOU HAND DELIVER THE COURT'S BOND DISCHARGE/BOND RELEASE TO THE BAIL BONDING AGENT. GET A RECEIPT FROM THE BAIL BONDING AGENT SHOWING THE DATE YOU DELIVERED THE DISCHARGE/RELEASE.** If you deliver the bond discharge/release to the bail bonding agent by mail, it is suggested to use certified mail, return receipt requested, with another certified mail copy to the Surety Company. **YOU SHOULD RETAIN A COPY OF ALL DOCUMENTS RELATED TO THIS BAIL BOND.** Please go to the Division's website at www.dora.state.co.us/insurance and click on the tab on the left of the web page titled "bail bonding information", scroll down and click on "a publication on Bail Bond" scroll down and click on "Your Guide to Bail Bonds in Colorado" for more information on your rights as a consumer.

Pursuant to § 12-7-108(1)(a), C.R.S. (2004) enacted in House Bill 04-1260, the bail bonding agent, with your consent, may use your collateral to secure the following obligations:

- compliance with the bond issued on behalf of the defendant (which may include costs associated with recovering the defendant should the defendant fail to appear for any court appearance associated with this bond if the court revokes the defendant's bond);
- any balance due on the premium, commission, or fee for the bond; and
- any related costs incurred by the agent as a result of issuing the bond.

READ YOUR EXECUTED AGREEMENT WITH THE BAIL BONDING AGENT CAREFULLY. BE SURE YOU UNDERSTAND ALL OF THE TERMS YOU ARE AGREEING TO.

I have read and understood this Disclosure Statement and consent that the bail bonding agent in this matter may use my collateral to secure the above obligations.

Dated: _____

Signature of defendant or third party indemnitor

I certify that the terms of this Disclosure Statement as it pertains to collateral are not inconsistent with the Executed Agreement/Indemnity Agreement in this matter.

Dated: _____

Signature of the bail bonding agent