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## Exempt Action Final Regulation Agency Background Document

<b>Agency name</b>	Department of Criminal Justice Services
<b>Virginia Administrative Code (VAC) citation(s)</b>	6 VAC 20-250
<b>Regulation title(s)</b>	Regulations Relating to Property and Surety Bail Bondsmen
<b>Action title</b>	Amend Regulations to Conform to Statutory Changes
<b>Final agency action date</b>	May 7, 2015
<b>Date this document prepared</b>	May 8, 2015

When a regulatory action is exempt from executive branch review pursuant to § 2.2-4002 or § 2.2-4006 of the Virginia Administrative Process Act (APA) or an agency's basic statute, the agency is not required, however, is encouraged to provide information to the public on the Regulatory Town Hall using this form. Note: While posting this form on the Town Hall is optional, the agency must comply with requirements of the Virginia Register Act, Executive Orders 17 (2014) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

### Brief summary

*Please provide a brief summary of the proposed new regulation, proposed amendments to the existing regulation, or the regulation proposed to be repealed. Alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

The proposed amendments to the regulations conform to statutory changes in the Code of Virginia made by the General Assembly in Chapter 600 of the 2015 Acts of the Assembly (House Bill 2314). The amendments require a bail bondsman to report any felony arrest to the Department within 10 calendar days of the arrest and reduce from 30 to 10 calendar days the time within which a bail bondsman must report changes to his or her residence or business address, any new disciplinary actions, and any arrests or criminal convictions. House Bill 2314 also prohibits any bail bondsman who has been arrested for a felony from issuing any new bonds pending the outcome of an investigation by the Department of Criminal Justice Services.

The proposed amendments to the regulations conform to statutory changes in the Code of Virginia made by the General Assembly in Chapter 84 of the 2014 Acts of Assembly (House Bill 1007). This

amendment replaced the acronym GED with "passed a high school equivalency examination approved by the Board of Education" which affects the eligibility requirements for bail bondsmen.

The proposed amendments to the regulations conform to the statutory changes in the Code of Virginia made by the General Assembly in Chapter 623 of the 2011 Acts of Assembly (House Bill 2437). This amendment prohibits a bail bondsman from charging a bond premium less than 10 percent or more than 15 percent of the amount of bond and prohibits a bondsman from loaning money with interest for the purpose of helping another obtain a bond. It also defines the term "bail bond premium."

### Statement of final agency action

*Please provide a statement of the final action taken by the agency including: 1) the date the action was taken; 2) the name of the agency taking the action; and 3) the title of the regulation.*

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On June 11, 2015, the Criminal Justice Services Board adopted these changes to the Regulations Relating to Property and Surety Bail Bondsmen to conform to statutory amendments.

### Family impact

*Please assess the impact of this regulatory action on the institution of the family and family stability including to what extent the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

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This regulatory action has no impact on the institution of the family and family stability.

**Project 4374 - Final**

**DEPARTMENT OF CRIMINAL JUSTICE SERVICES**

**Amend Regulations to Conform to Statutory Language**

Part III

Licensing Procedures and Requirements

6VAC20-250-30. Bail bondsman eligibility.

A. Persons required to be licensed as a bail bondsman pursuant to § 9.1-102.47 of the Code of Virginia, shall meet all licensure requirements in this section. Persons who carry or have access to a firearm while on duty must have a valid license with a firearm endorsement as described under 6VAC20-250-80. If carrying a handgun concealed, the person must also have a valid concealed handgun permit and the written permission of his employer pursuant to § 18.2-308 of the Code of Virginia.

B. Each person applying for a bail bondsman license shall meet the minimum requirements for eligibility as follows:

1. Be a minimum of 18 years of age;
2. Be a United States citizen or legal resident alien of the United States; and
3. Have received a high school diploma or **GED passed a high school equivalency examination approved by the Board of Education.**
4. Have successfully completed all initial training requirements, pursuant to the compulsory minimum training standards in Part IV (6VAC20-250-130 et seq.) of this chapter.
5. Have successfully completed the bail bondsman exam required by the board at a certified or licensed private security services training school with a minimum passing grade of 70%.

C. The following persons are not eligible for licensure as bail bondsmen and may not be employed nor serve as the agent of a bail bondsman:

1. Persons who have been convicted of a felony within the Commonwealth, any other state, or the United States, who have not been pardoned, or whose civil rights have not been restored;
2. Employees of a local or regional jail;
3. Employees of a sheriff's office;
4. Employees of a state or local police department;
5. Persons appointed as conservators of the peace pursuant to Article 4.1 (§ 9.1-150.1 et seq.) of Chapter 1 of Title 9.1 of the Code of Virginia;
6. Employees of an office of an attorney for the Commonwealth;
7. Employees of the Department of Corrections, Department of Criminal Justice Services, or a local pretrial or community-based probation services agency; and

8. Spouses of or any persons residing in the same household as persons referred to in subdivisions 2 through 7 of this subsection.

D. The exclusions in subsection C of this section shall not be construed to limit the ability of a licensed bail bondsman to employ or contract with a licensed bail enforcement agent authorized to do business in the Commonwealth.

6VAC20-250-230. Reporting requirements.

A. Each licensed bail bondsman shall report within 30 10 calendar days to the department any change in his residence, name, business name or business address, and ensure that the department has the names and all fictitious names of all companies under which he carries out his bail bonding business.

~~B. Each licensed bail bondsman arrested for a felony shall submit a copy of the warrant of arrest within seven days to the department.~~

~~B.~~ Each licensed bail bondsman arrested for or convicted of a felony shall report within 30 10 calendar days to the department the facts and circumstances regarding the criminal arrest or conviction and submit a copy of the warrant of arrest.

D. Each licensed bail bondsman shall report to the department, within 30 10 calendar days of the final disposition, of the matter any administrative action taken against him by another governmental agency in the Commonwealth or in another jurisdiction. Such report shall include a copy of the order, consent to order or other relevant legal documents.

E. Each licensed bail bondsman shall report to the department within 24 hours any event in which he discharges a firearm during the course of his duties.

F. Each licensed property bail bondsman shall submit to the department, on a prescribed form, not later than the fifth day of each month, a list of all outstanding bonds on which he was obligated as of the last day of the preceding month, together with the amount of the penalty of each such bond.

G. Each licensed property bail bondsman shall report to the department any change in the number of agents in his employ within seven days of such change and concurrently provide proof of collateral of \$200,000 for each new agent, in accordance with subsection C of § 9.1-185.5 of the Code of Virginia.

H. Each licensed agent bail bondsman shall report to the department termination of his employment within seven days of such termination.

I. Each licensed property bail bondsman shall report to the department within five business days any change in legal ownership or if any new lien, encumbrance, or deed of trust is placed on any real estate that is being used as collateral on his or his agents' bonds as well as the amount it is securing. The reporting requirement deadline is deemed to begin as soon as the licensed property bail bondsman learns of any change in legal ownership or of the new lien, encumbrance, or deed of trust, or should have reasonably known of the change in legal ownership or that such a lien, encumbrance, or deed of trust had been recorded.

J. Each licensed surety bail bondsman shall report to the department within 30 days any change in his employment or agency status with a licensed insurance company. If the surety bail bondsman receives a new qualifying power of attorney from an insurance company, he shall

forward a copy thereof within 30 days to the department, in accordance with subdivision D 2 of § 9.1-185.5 of the Code of Virginia.

6VAC20-250-250. Professional conduct standards; grounds for disciplinary actions.

A. Any violations of the restrictions or standards under this statute shall be grounds for placing on probation, refusal to issue or renew, sanctioning, suspension or revocation of the bail bondsman's license. A licensed bail bondsman is responsible for ensuring that his employees, partners and persons contracted to perform services for or on behalf of the bonding business comply with all of these provisions, and do not violate any of the restrictions that apply to bail bondsmen. Violations by a bondsman's employee, partner, or agent may be grounds for disciplinary action against the bondsman, including probation, suspension or revocation of license. Upon notification from the State Corporation Commission of a license suspension, the department shall immediately suspend a surety bondsman's license, pending the results of an investigation.

B. A licensed bail bondsman shall not:

1. Knowingly commit, or be a party to, any material fraud, misrepresentation, concealment, conspiracy, collusion, forgery, scheme or device whereby any other person lawfully relies upon the word, representation, or conduct of the bail bondsman.
2. Solicit sexual favors or extort additional consideration as a condition of obtaining, maintaining, or exonerating bail bond, regardless of the identity of the person who performs the favors.
3. Conduct a bail bond transaction that demonstrates bad faith, dishonesty, coercion, incompetence, extortion or untrustworthiness.
4. Coerce, suggest, aid and abet, offer promise of favor, or threaten any person on whose bond he is surety or offers to become surety, to induce that person to commit any crime.
5. Give or receive, directly or indirectly, any gift of any kind to any nonelected public official or any employee of a governmental agency involved with the administration of justice, including but not limited to law-enforcement personnel, magistrates, judges, and jail employees, as well as attorneys. De minimis gifts, not to exceed \$50 per year per recipient, are acceptable, provided the purpose of the gift is not to directly solicit business, or would otherwise be a violation of board regulations or the laws of the Commonwealth.
6. Fail to comply with any of the statutory or regulatory requirements governing licensed bail bondsmen.
7. Fail to cooperate with any investigation by the department.
8. Fail to comply with any subpoena issued by the department.
9. Provide materially incorrect, misleading, incomplete or untrue information in a license application, renewal application, or any other document filed with the department.
10. Provide bail for any person if he is also an attorney representing that person.
11. Provide bail for any person if the bondsman was initially involved in the arrest of that person.

C. A licensed bail bondsman shall ensure that each recognizance on all bonds for which he signs shall contain his name, license number and contact information.

D. A surety bail bondsman shall in addition ensure that each recognizance for which he signs contains the contact information for both the surety agent and the registered agent of the issuing company.

E. An administrative fee may be charged by a bail bondsman, not to exceed reasonable costs and must be disclosed in writing. Reasonable costs may include, but are not limited to, travel, court time, recovery fees, phone expenses, administrative overhead and postage.

F. A property bail bondsman shall not enter into any bond if the aggregate of the penalty of such bond and all other bonds, on which he has not been released from liability, is in excess of four times the true market value of the equity in his real estate, cash or certificates of deposit issued by a federally insured institution, or any combination thereof.

G. A property bail bondsman or his agent shall not refuse to cover any forfeiture of bond against him or refuse to pay such forfeiture after notice and final order of the court.

H. A surety bail bondsman shall not refuse to cover any forfeiture of bond against him or refuse to pay such forfeiture after notice and final order of the court.

I. A surety bail bondsman shall not write bail bonds on any qualifying power of attorney for which a copy has not been filed with the department.

J. A surety bail bondsman shall not violate any of the statutes or regulations that govern insurance agents.

K. A licensed bail bondsman shall disclose in writing to the indemnitor if the bail bondsman has the knowledge that the bailee is being held in multiple jurisdictions.

L. A licensed bail bondsman shall not violate any provision specified in protective orders served on a potential bailee pursuant to § 16.1-253.1 of the Code of Virginia.

M. A licensed bail bondsman shall not charge a bail bond premium less than 10 percent or more than 15 percent of the amount of the bond. A licensed bail bondsman shall not loan money with interest for the purpose of helping another obtain a bail bond.

For the purpose of this subsection, "bail bond premium" means the amount of money paid to a licensed bail bondsman for the execution of a bail bond.

N. A licensed bail bondsman who has been arrested for a felony offense shall not issue any new bonds pending the outcome of the investigation by the Department.