



Economic Impact Analysis Virginia Department of Planning and Budget

6 VAC 20-250 – Regulations Relating to Property & Surety Bail Bondsmen
Department of Criminal Justice Services
September 10, 2006

Summary of the Proposed Regulation

Pursuant to legislation passed during the 2004 General Assembly session, the Criminal Justice Services Board (board) proposes regulations for licensure of property and surety bail bondsmen.

Result of Analysis

There is not enough information to compare the magnitude of costs versus benefits for this proposed regulatory change.

Estimated Economic Impact

Prior to implementation of emergency regulations in July, 2005, surety bail bondsmen were licensed by the State Corporation Commission (SCC). Surety bail bondsmen were required to obtain a background check and submit it to the SCC. Individuals who had been convicted of a felony, but whose civil rights had not been restored, were not eligible for licensure. Surety bondsmen were required to provide the SCC with powers of attorney which served as proof that the surety bondsmen were agents of a particular insurance company. Surety bondsmen were also required to pass an exam. In total, the Department of Criminal Justice Services (DCJS) estimates that the total cost of licensure through the SCC was approximately \$50 (\$35 for the background check and \$15 to cover the cost of the required exam) plus the cost associated with time spent meeting SCC requirements.

Prior to July 2005, property bail bondsmen had to obtain a certificate from a judge in a locality where they wanted to offer bonds. They had to be of good moral character. They had to verify (with a tax or other property assessment) that they had collateral against the totality of their outstanding bonds and had to sign an affidavit that they had at least \$200,000 equity in their

collateral property. They had to undergo a fingerprint background check and, like surety bondsmen, they could not offer bonds if they had been convicted of a felony. The costs associated with being able to offer bonds as a property bondsmen included a \$35 fee to cover the required fingerprint background check and any costs associated with obtaining property assessments. These individuals also incurred opportunity costs for time spent meeting legal requirements.

The proposed regulation will require both property and surety bail bondsmen to:

- Have a General Equivalency Diploma (GED) or a high school diploma.
- Undergo a fingerprint background check through DCJS (this costs \$60).
- Undergo 40 hours of bail bondsmen core training and 14 hours of firearms training (if they intend to carry a gun while acting as a bondsmen).
- Take an exam (through DCJS).
- Pay a licensure fee that will vary between \$1,000, for surety bail bondsmen, and \$1,150, for principal property bail bondsmen who have other property bondsmen working for them. An additional \$30 must be paid on an annual basis if a bondsman wants a DCJS firearms endorsement.
- Undergo eight hours of in-service training before biannual re-licensure.

In addition to these general requirements, surety bail bondsmen must still maintain an SCC property and casualty license and must provide DCJS with a property and casualty power of attorney. Property bail bondsmen have to provide DCJS with verification of at least \$200,000 equity in property (or an equivalent value held in cash or certificates of deposit). Principal property bail bondsmen must also provide verification of an additional \$200,000 for each agent bail bondsmen in their employ. Property bail bondsmen must report the dollar value of any bonds they have outstanding each month (by the 5th) to DCJS. Neither property nor surety bail bondsmen may post any advertising materials on government property or wear any company insignia larger than 3 by 5 inches while on government property. All of these requirements, except for the restrictions on advertising on government property, are due to legislative mandate.

The costs that bail bondsmen will incur because of the proposed regulation include all explicit fees and training costs plus the implicit costs of time spent on becoming and remaining

licensed (time spent in training, filling out paperwork, etc.) and any loss of income that can be attributed to the new restrictions on advertising. Localities and the Commonwealth may also incur costs if the proposed regulation reduces the number of bail bondsmen operating in Virginia and, as a consequence of this, individuals in jail awaiting trial stay in jail for more days because they cannot make bail. The legislature is requiring regulation for bail bondsmen because they believe such regulation will protect the public from bondsmen, and bondsmen's agents, who have, on rare occasions, acted unethically or criminally while engaging in bond recovery. It is not entirely clear, however, that much of this same end couldn't have been accomplished more efficiently by more vigorously enforcing preexisting criminal law.

Businesses and Entities Affected

DCJS licensed 260 surety bail bondsmen and 118 property bail bondsmen when emergency regulations were implemented in late 2005. All of these, plus any other individuals who may wish to pursue a career in the future, will be affected by the proposed regulation.

Localities Particularly Affected

The proposed regulation will affect all localities in the Commonwealth.

Projected Impact on Employment

The licensure fees that DCJS will charge surety bail bondsmen are significantly higher than those that the SCC has charged and property bail bondsmen will be subject to licensure fees for the first time. These increased fees may lead some bondsmen to choose to leave their employment in this field. Some of the other requirements that this regulation or the mandating legislation imposes have imposed or will impose will preclude some bail bondsmen from continuing their practice in this field. Bail bondsmen who do not have a GED or high school diploma, for example, will not be able to be licensed by the Commonwealth as bail bondsmen no matter how long they have practiced in this field.

Effects on the Use and Value of Private Property

To the extent that the proposed regulation precludes business owners from continuing to practice as bail bondsmen, the value of their businesses will likely fall toward zero. If these businesses can be sold, some of their original value may be recoverable. Bail bondsmen who are able to continue practicing after promulgation of the proposed regulation may see an increase in

the value of their businesses as they will likely face less competition and may be able to write more bonds.

Small Businesses: Costs and Other Effects

Property and surety and bail bondsmen will incur licensure fees and the cost associated with the necessary background check. They will also lose the value associated with the ban the proposed regulation will place on advertisement of any sort within any court, jail, lock-up or on any surrounding government t property.

Small Businesses: Alternative Method that Minimizes Adverse Impact

Most requirements that the proposed regulation will impose are on account of legislative mandate. DCJS might lessen the impact of the proposed regulation by loosening the restrictions on advertising on government property and the restrictions on what advertising bail bondsmen can wear.

Legal Mandate

The Department of Planning and Budget (DPB) has analyzed the economic impact of this proposed regulation in accordance with Section 2.2-4007.H of the Administrative Process Act and Executive Order Number 21 (02). Section 2.2-4007.H requires that such economic impact analyses include, but need not be limited to, the projected number of businesses or other entities to whom the regulation would apply, the identity of any localities and types of businesses or other entities particularly affected, the projected number of persons and employment positions to be affected, the projected costs to affected businesses or entities to implement or comply with the regulation, and the impact on the use and value of private property. Further, if the proposed regulation has adverse effect on small businesses, Section 2.2-4007.H requires that such economic impact analyses include (i) an identification and estimate of the number of small businesses subject to the regulation; (ii) the projected reporting, recordkeeping, and other administrative costs required for small businesses to comply with the regulation, including the type of professional skills necessary for preparing required reports and other documents; (iii) a statement of the probable effect of the regulation on affected small businesses; and (iv) a description of any less intrusive or less costly alternative methods of achieving the purpose of the

regulation. The analysis presented above represents DPB's best estimate of these economic impacts.