



**COMMONWEALTH of VIRGINIA**  
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**MEMORANDUM**

**TO:** Leonard G. Cooke, Director  
Department of Criminal Justice Services

**FROM:** James Towey  
Assistant Attorney General

**DATE:** May 31, 2006

**SUBJECT:** Authority to adopt regulations pursuant to Code of Virginia § 9.1-102 and § 9.1-185 *et seq.*

**CC:** Lisa Hahn, Section Chief, Private Security Services Section.

In response to a request from the Department of Criminal Justice Services (“Department”), I have reviewed the proposed regulations, titled “Regulations Relating to Property and Surety Bail Bondsmen”, to be set forth in 6 VAC 20-250-10 *et seq.*

Virginia Code § 9.1-102 was amended, effective July 1, 2005, to entrust the Department with the power and duty to license and regulate property bail bondsmen and surety bail bondsmen in accordance with a newly created Article 11 (§ 9.1-185 *et seq.*) within Chapter 1 of Title 9.1.<sup>1</sup> The new Article 11 grants the Department full regulatory authority and oversight of property and surety bail bondsmen. Specifically, § 9.1-187 requires that the Department adopt regulations that are necessary to ensure respectable, responsible, safe and effective bail bonding within the Commonwealth. Such regulations shall include, but not be limited to, regulations that (i) establish the qualifications of applicants for licensure and renewal, (ii) examine, or cause to be examined, the qualifications of each applicant (iii) levy and collect fees for licensure and renewal, (iv) ensure competency and prevent deceptive or misleading practices, (v) administer the regulatory system, (vi) provide for receipt of complaints concerning the conduct of any person whose activities are regulated, (vii) provide for investigations

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<sup>1</sup> 2004 Va. Acts c. 460.

and appropriate disciplinary action, (viii) establish standards for professional conduct, solicitation, collateral received in the course of business, firearms training and usage, uniforms and identification, documentation and recordkeeping requirements, reporting requirements, and methods of capture for the recovery of bailees, and (ix) allow for the suspension, revocation, or refusal to issue, reissue, or renew a license for just cause.

Upon review, I find the proposed regulations to be constitutional, consistent with the statutory authority granted by § 9.1-102(46) and § 9.1-185 *et seq.* of the Code of Virginia, and in conformity with existing statutory provisions.

*Please note that this memorandum is intended to provide legal interpretations and legal advice, not policy advice. To the extent that this communication may advise you that certain action is lawful, the decision whether to take such action remains a policy decision within the discretion of your agency and this communication should not be construed as a comment for or against the merits of such action.*