

**Texas Statutes – Section 1704.152 --ELIGIBILITY ---TEX OC.
CODE ANN. 1704.152 :The Law**

OCCUPATIONS CODE

**TITLE 10. OCCUPATIONS RELATED TO LAW ENFORCEMENT AND
SECURITY**

CHAPTER 1704. REGULATION OF BAIL BOND SURETIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 1704.001. **DEFINITIONS.** In this chapter:

(1) **"Bail bond"** means a cash deposit, or similar deposit or written undertaking, or a bond or other security, given to guarantee the appearance of a defendant in a criminal case.

(2) **"Bail bond surety"** means a person who:

(A) executes a bail bond as a surety or co-surety for another person; or

(B) for compensation deposits cash to ensure the appearance in court of a person accused of a crime.

(3) **"Board"** means a county bail bond board.

(4) **"Bonding business"** or "bail bond business" means the solicitation, negotiation, or execution of a bail bond by a bail bond surety.

(4-a) **"Final judgment"** means a judgment that disposes of all issues and parties in a case.

(5) **"Person"** means an individual or corporation.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1262, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 942, Sec. 6, eff. June 20, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. [316](#), Sec. 1, eff. September 1, 2005.

Sec. 1704.002. **APPLICATION OF CHAPTER.** This chapter applies only in a county with a population of:

- (1) 110,000 or more; or
- (2) less than 110,000 in which a board is created.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER B. COUNTY BAIL BOND BOARDS

Sec. 1704.051. **MANDATORY CREATION OF BOARD.** A board is created in each county with a population of 110,000 or more.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 1704.052. **DISCRETIONARY CREATION OF BOARD.** A board may be created in a county with a population of less than 110,000 if:

(1) a majority of the persons who would serve as members of the board under Section 1704.053, or who would designate the persons who would serve as members of the board, determine to create a board; and

(2) the commissioners court approves the creation of the board by a majority vote.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [923](#), Sec. 1, eff. June 19, 2009.

Sec. 1704.053. **BOARD COMPOSITION.** A board consists of:

(1) the sheriff or a designee from the sheriff's office who must be the sheriff's administrator or a deputy sheriff of the rank of at least sergeant;

(2) a district judge of the county having jurisdiction over criminal matters and designated by the presiding judge of the administrative judicial district or a designee of the district judge who is approved by the presiding judge;

(3) the county judge, a member of the commissioners court designated by the county judge, or a designee approved by the commissioners court;

(4) a judge of a county court or county court at law in the county having jurisdiction over criminal matters and designated by the commissioners court or a designee of the judge who is approved by the commissioners court;

(5) the district attorney or an assistant district attorney designated by the district attorney;

(6) a licensed bail bond surety or agent for a corporate surety in the county elected under Section 1704.0535, or a bail bond surety or agent for a corporate surety licensed in the county who is designated by the elected surety or agent;

(7) a justice of the peace;

(8) the district clerk or the clerk's designee;

(9) the county clerk or the clerk's designee, if the county clerk has responsibility over criminal matters;

(10) if appointed by the board, a presiding judge of a municipal court in the county;

(11) if the county's principal municipality designates a presiding judge in the municipal court system, the presiding judge or a municipal judge from the system designated by the presiding judge;

(12) the county treasurer or the treasurer's designee or, if appointed by the commissioners court in a county that does not have a county treasurer, the person designated by the county commissioners court to perform the duties of the county treasurer; and

(13) a criminal defense attorney practicing in the county and elected by other attorneys whose principal places of business are located in the county and who are not legally prohibited from representing criminal defendants or the designee of the criminal defense attorney.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.503(a), eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 942, Sec. 7, eff. June 20, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. [353](#), Sec. 1, eff. September 1, 2007.

Sec. 1704.0535. **ELECTION OF BAIL BOND SURETY BOARD MEMBER.** (a) The board shall annually conduct a secret ballot election to elect the member of the board who serves as the representative of licensed bail bond sureties by electing a licensed bail bond surety or agent for a corporate surety board member.

(b) Each individual licensed in the county as a bail bond surety or agent for a corporate surety is entitled to cast one vote for each license held.

Added by Acts 2003, 78th Leg., ch. 942, Sec. 8, eff. June 20, 2003.

Sec. 1704.054. **PRESIDING OFFICER.** (a) A board shall initially elect one of its members as presiding officer.

(b) The presiding officer shall preside over board meetings.

(c) The presiding officer may vote on any board matter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 942, Sec. 9, eff. June 20, 2003.

Sec. 1704.055. **MEETINGS.** (a) A board shall hold its initial meeting not later than the 60th day after the date the board is created.

(b) Except as provided by Subsection (c), a board shall meet:

(1) at least once a month; and

(2) at other times at the call of the presiding officer.

(c) A board in a county with a population of less than 50,000 shall meet at least four times each year during the months of January, April, July, and October at the call of the presiding officer.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [899](#), Sec. 1, eff. June 19, 2009.

Sec. 1704.056. **QUORUM; MAJORITY VOTE.** (a) Four members of a board constitute a quorum.

(b) A board may take action only on a majority vote of the board members present.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER C. BOARD POWERS AND DUTIES

Sec. 1704.101. **ADMINISTRATIVE AUTHORITY.** A board shall:

(1) exercise powers incidental or necessary to the administration of this chapter;

(2) deposit fees collected under this chapter in the general fund of the county;

(3) supervise and regulate each phase of the bonding business in the county;

- (4) adopt and post rules necessary to implement this chapter;
- (5) conduct hearings and investigations and make determinations relating to the issuance, denial, or renewal of licenses;
- (6) issue licenses to qualified applicants;
- (7) deny licenses to unqualified applicants;
- (8) employ persons necessary to assist in board functions; and
- (9) conduct board business, including maintaining records and minutes.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 1704.102. **ENFORCEMENT AUTHORITY.** (a) A board shall:

- (1) enforce this chapter in the county;
- (2) conduct hearings and investigations and make determinations relating to license suspension and revocation;
- (3) suspend or revoke a license for a violation of this chapter or a rule adopted by the board under this chapter; and
- (4) require a record and transcription of each board proceeding.

(b) A board may:

- (1) compel the appearance before the board of an applicant or license holder; and
- (2) during a hearing conducted by the board, administer oaths, examine witnesses, and compel the production of pertinent records and testimony by a license holder or applicant.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 1704.103. **DISBURSEMENTS FROM COUNTY FUND.** (a) Fees deposited in the general fund of a county under Section 1704.101(2) may be used only to administer and enforce this chapter, including reimbursement for:

- (1) reasonable expenses incurred by the board in enforcing this chapter; and
- (2) actual expenses incurred by a board member in serving on the board.

(b) For purposes of this section, serving on a board is an additional duty of a board member's office. A board member may not receive compensation for serving on a board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 1704.104. **POSTING OF BOARD RULE OR ACTION.** A board shall post a rule adopted or an action taken by the board in an appropriate place in the county courthouse for the 10 days preceding the date the rule or action takes effect.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 1704.105. **LICENSED BAIL BOND SURETY LIST.** (a) A board shall post in each court having criminal jurisdiction in the county, and shall provide to each local official responsible for the detention of prisoners in the county, a current list of each licensed bail bond surety and each licensed agent of a corporate surety in the county.

(b) A list of each licensed bail bond surety and each licensed agent of a corporate surety in a county must be displayed at each location where prisoners are examined, processed, or confined.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 942, Sec. 10, eff. June 20, 2003.

Sec. 1704.107. **NOTIFICATION OF LICENSE SUSPENSION OR REVOCATION.** A board shall immediately notify each court and each local official responsible for the detention of prisoners in the county of:

- (1) the suspension or revocation of a license issued under this chapter; and
- (2) the revocation of the authority of a license holder's agent.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 1704.108. **NOTIFICATION OF DEFAULT BY CORPORATION.** A board shall promptly notify the Texas Department of Insurance if a corporation fails to pay a judgment of forfeiture as provided by Section 1704.204(a).

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 942, Sec. 11, eff. June 20, 2003.

Validity

This section has been declared unconstitutional. See Pruet v. Harris County Bail Bond Bd., 400 F.Supp. 2d 967 (S.D. Tex. 2005).

Sec. 1704.109. SOLICITATION AND ADVERTISEMENT. (a) A board by rule may regulate solicitations or advertisements by or on behalf of bail bond sureties to protect:

- (1) the public from:
 - (A) harassment;
 - (B) fraud;
 - (C) misrepresentation; or
 - (D) threats to public safety; or
- (2) the safety of law enforcement officers.

(b) A bail bond surety, an agent of a corporate surety, or an employee of the surety or agent may not make, cause to be made, or benefit from unsolicited contact:

(1) through any means, including in person, by telephone, by electronic methods, or in writing, to solicit bonding business related to an individual with an outstanding arrest warrant that has not been executed, unless the bail bond surety or agent for a corporate surety has an existing bail bond on the individual; or

- (2) in person or by telephone to solicit bonding business:
 - (A) that occurs between the hours of 9 p.m. and 9 a.m.; or
 - (B) within 24 hours after:
 - (i) the execution of an arrest warrant on the individual; or
 - (ii) an arrest without a warrant on the individual.

(c) This section does not apply to a solicitation or unsolicited contact related to a Class C misdemeanor.

Added by Acts 2001, 77th Leg., ch. 1262, Sec. 2, eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 942, Sec. 12, eff. June 20, 2003.

SUBCHAPTER D. LICENSING REQUIREMENTS

Sec. 1704.151. LICENSE REQUIRED. Except as provided by Section 1704.163, a person may not act as a bail bond surety or as an agent for a corporate surety in the county unless the person holds a license issued under this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 942, Sec. 13, eff. June 20, 2003.

Sec. 1704.152. **ELIGIBILITY.** (a) To be eligible for a license under this chapter, an individual, including an agent designated by a corporation in an application, must:

- (1) be a resident of this state and a citizen of the United States;
- (2) be at least 18 years of age;
- (3) possess the financial resources required to comply with Section 1704.160, unless the individual is acting only as agent for a corporation holding a license under this chapter; and

- (4) submit documentary evidence that, in the two years preceding the date a license application is filed, the individual:

- (A) has been continuously employed by a person licensed under this chapter for at least one year and for not less than 30 hours per week, excluding annual leave, and has performed duties that encompass all phases of the bonding business; and

- (B) completed in person at least eight hours of continuing legal education in criminal law courses or bail bond law courses that are approved by the State Bar of Texas and that are offered by an accredited institution of higher education in the state.

(b) To be eligible for a license under this chapter, a corporation must be:

- (1) chartered or admitted to do business in this state; and
- (2) qualified to write fidelity, guaranty, and surety bonds under the Insurance Code.

(c) Subsection (a)(4) does not apply to the issuance of an original license:

- (1) in a county before the first anniversary of the date a board is created in the county; or
- (2) to an individual who applies to operate the bail bond business of a license holder who has died if the individual is related to the decedent within the first degree by consanguinity or is the decedent's surviving spouse.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1262, Sec. 3, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 942, Sec. 14, eff. June 20, 2003. Amended by: Acts 2005, 79th Leg., Ch. [316](#), Sec. 2, eff. September 1, 2005.

Sec. 1704.153. **INELIGIBILITY BECAUSE OF CRIMINAL CONVICTION.** A person is not eligible for a license under this chapter if, after August 27, 1973, the person commits and is finally convicted of a misdemeanor involving moral turpitude or a felony.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 1704.154. **APPLICATION REQUIREMENTS.** (a) To be licensed under this chapter, a person must apply for a license by filing a sworn application with the board.

(b) The application must:

(1) be in a form and contain the information prescribed by the board;

(2) state:

(A) the applicant's name, age, and address;

(B) if the applicant is a corporation, whether the applicant is:

(i) chartered or admitted to do business in this state;

and

(ii) qualified to write fidelity, guaranty, and surety bonds under the Insurance Code;

(C) the name under which the bail bond business will be conducted, including a bail bond business that is conducted by an agent of a corporation;

(D) each place, including the street address and municipality, at which the business will be conducted; and

(E) the amount of cash or the cash value of a certificate of deposit or cashier's check that the applicant intends to deposit with the county treasurer if the applicant's application is approved or, if the applicant is an individual intending to execute nonexempt real property in trust to the board, the value of the real property;

(3) if the applicant is an individual, be accompanied by a list, as required by Section 1704.155, of nonexempt real property owned by the applicant that the applicant intends to execute in trust to the board if the applicant's application is approved; and

(4) be accompanied by:

(A) the applicant's complete, sworn financial statement;

(B) the applicant's declaration that the applicant will comply with this chapter and the rules adopted by the board;

(C) three letters of recommendation, each from a person who:
(i) is reputable; and
(ii) has known the applicant or, if the applicant is a corporation, the agent designated by the corporation in the application for at least three years;

(D) a \$500 filing fee;

(E) a photograph of the applicant or, if the applicant is a corporation, of the agent designated by the corporation in the application;

(F) a set of fingerprints of the applicant or, if the applicant is a corporation, of the agent designated by the corporation in the application taken by a law enforcement officer designated by the board;

(G) if the applicant is or has been licensed under this chapter in another county:

(i) a list of each county in which the applicant holds a license; and

(ii) a statement by the applicant, as of the date of the application, of any final judgments that have been unpaid for more than 30 days and that arose directly or indirectly from a bail bond executed by the applicant as a surety or as an agent for a surety; and

(H) if the applicant is a corporation, a statement by the designated agent, as of the date of the application, of any final judgments that have been unpaid for more than 30 days and that arose directly or indirectly from any bond executed by the agent as a surety or as an agent for a surety.

(c) A letter of recommendation submitted under Subsection (b) (4) (C) must:

(1) state that the applicant or, if the applicant is a corporation, the agent designated by the corporation in the application has a reputation for honesty, truthfulness, fair dealing, and competency; and

(2) recommend that the board issue the license.

(d) Until payment of the final judgment, an unpaid final judgment disclosed under Subsection (b) (4) (G) (ii) or (b) (4) (H) bars licensure for the applicant unless the applicant has deposited with the court cash or a supersedeas bond in the amount of the final judgment pending:

(1) a ruling on a timely filed motion for a new trial; or

(2) an appeal.

(e) A corporation must file a separate corporate application for each agent the corporation designates in the county.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1262, Sec. 4, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 942, Sec. 15, eff. June 20, 2003.

Sec. 1704.155. **REAL PROPERTY LIST.** A list of nonexempt real property required under Section 1704.154(b) (3) must, for each parcel listed, include:

(1) a legal description of the property that would be sufficient to convey the property by general warranty deed;

(2) a current statement from each taxing unit authorized to impose taxes on the property showing that there is no outstanding tax lien against the property;

(3) at the option of the applicant, either the property's:

(A) net value according to a current appraisal made by a real estate appraiser who is a member in good standing of a nationally recognized professional appraiser society or trade organization that has an established code of ethics, educational program, and professional certification program; or

(B) value according to a statement from the county from the county's most recent certified tax appraisal roll;

(4) a statement by the applicant that, while the property remains in trust, the applicant:

(A) agrees to pay the taxes on the property;

(B) will not further encumber the property unless the applicant notifies the board of the applicant's intent to encumber the property and the board permits the encumbrance; and

(C) agrees to maintain insurance on any improvements on the property against damage or destruction in the full amount of the value claimed for the improvements;

(5) a statement of whether the applicant is married; and

(6) if the applicant is married, a sworn statement from the applicant's spouse agreeing to transfer to the board, as a part of the trust, any right, title, or interest that the spouse may have in the property.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1262, Sec. 5, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 942, Sec. 16, eff. June 20, 2003.

Sec. 1704.156. **REAPPRAISAL OF REAL PROPERTY.** (a) An appraisal district may not reappraise real property solely because the property owner is a license holder or an applicant for a license under this chapter.

(b) An appraisal district is not prohibited from reappraising real property in connection with the appraisal of real property in the same general area or if the reappraisal is requested by the board, a license holder, or an applicant for a license.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 1704.157. **PRELIMINARY DETERMINATIONS.** Before a hearing on an application, a board or a board's authorized representative shall determine whether the applicant:

- (1) possesses the financial resources to comply with Section 1704.160;
- and
- (2) satisfies the other requirements of this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 1704.158. **HEARING ON APPLICATION.** (a) After making the determinations required by Section 1704.157, a board shall conduct a hearing on the application.

(b) During the hearing:

- (1) the board may submit to the applicant or the applicant's agent any questions relevant to the board's decision on the application; and
- (2) the applicant may present oral and documentary evidence.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 1704.159. **DECISION ON APPLICATION; BOARD ORDER.** (a) After the hearing under Section 1704.158, the board shall enter an order conditionally approving the application unless the board determines that a ground exists to deny the application.

If the board determines that a ground exists to deny the application, the board shall enter an order denying the application.

(b) An order issued under Subsection (a) conditionally approving an application becomes final on the date the applicant complies with the security requirements of Section 1704.160.

(c) A board shall give written notice to an applicant of the board's decision on the application.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 942, Sec. 17, eff. June 20, 2003.

Sec. 1704.160. **SECURITY REQUIREMENTS.** (a) On receipt of notice under Section 1704.159 that an application has been conditionally approved, the applicant, not later than the 90th day after the date of receipt of the notice, must:

(1) if the applicant is an individual:

(A) subject to Subsection (b), deposit with the county treasurer a cashier's check, certificate of deposit, or cash in the amount stated on the application under Section 1704.154(b)(2)(E); or

(B) subject to Subsections (c)-(f), execute in trust to the board each deed to the property listed on the application under Section 1704.154(b)(3); or

(2) if the applicant is a corporation, subject to Subsection (b), deposit with the county treasurer a cashier's check, certificate of deposit, or cash in the amount stated on the application under Section 1704.154(b)(2)(E).

(b) A deposit made under Subsection (a)(1)(A) or (a)(2) may not be less than \$50,000. A corporation must make a separate deposit for each license granted to it in a county. A deposit made to a county with a population of less than 250,000 shall be placed in a fund known as a bail security fund.

(c) At the option of the applicant, the property executed in trust under Subsection (a)(1)(B) must be valued in the amount indicated by:

(1) an appraisal by a real estate appraiser who is a member in good standing of a nationally recognized professional appraiser society or trade organization that has an established code of ethics, educational program, and professional certification program; or

(2) the county's most recent certified tax appraisal roll.

(d) The total value of the property executed in trust under Subsection (a) (1) (B) may not be less than \$50,000.

(e) A trust created under Subsection (a) (1) (B) is subject to the condition that the property executed in trust may, after notice is provided and under the conditions required by the Code of Criminal Procedure, be sold to satisfy a final judgment on a forfeiture on a bail bond executed by the applicant.

(f) If an applicant is married, the applicant's spouse must execute each deed of trust under Subsection (a) (1) (B) that involves community property.

(g) A board shall file each deed of trust in the records of each county in which the property is located. The applicant shall pay the filing fee.

(h) The certificate of authority to do business in this state issued under Section 861.102, Insurance Code, to an applicant that is a corporation is conclusive evidence of:

- (1) the sufficiency of the applicant's security; and
- (2) the applicant's solvency and credits.

(i) A license holder must maintain the amount of security required by this section during the time the person holds the license.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1262, Sec. 6, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 14.504, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 942, Sec. 18, eff. June 20, 2003; Acts 2003, 78th Leg., ch. 1276, Sec. 10A.547, eff. Sept. 1, 2003.

Sec. 1704.161. **LICENSE FORM.** (a) Each license issued under this chapter must show on its face the license expiration date and the license number.

(b) The same license number must appear on each subsequent renewal license.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 1704.162. **LICENSE EXPIRATION AND RENEWAL.** (a) A license issued or renewed under this chapter expires on the second anniversary after the date the license is issued or is to expire, as appropriate, if the license:

- (1) has been issued for less than eight consecutive years; or
- (2) has been suspended.

(b) To renew a license, a license holder must file with the board an application for renewal not later than the 31st day before the license expiration date.

(c) An application for renewal must comply with the requirements for an original license application under Section 1704.154, including the \$500 filing fee requirement.

(d) A board shall approve an application for renewal if:

- (1) the applicant's current license is not suspended or revoked;
- (2) the application complies with the requirements of this chapter;

and

(3) the board does not determine that a ground exists to deny the application.

(e) A person who applies to renew a license that has been held by the person for at least eight consecutive years without having been suspended or revoked under this chapter and who complies with the requirements of this chapter may renew the license for a period of 36 months from the date of expiration if the board:

- (1) knows of no legal reason why the license should not be renewed;

and

(2) determines that the applicant has submitted an annual financial report to each county bail bond board before the anniversary date of the issuance of the applicant's license.

(f) A license renewed under Subsection (e) may be renewed subsequently each 36 months in a similar manner.

(g) The board may disapprove an application only by entering an order.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.505(a), eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 942, Sec. 19, eff. June 20, 2003.

Sec. 1704.163. **ATTORNEY EXEMPTION.** (a) Except as provided by this section, a person not licensed under this chapter may execute a bail bond or act as a surety for another person in any county in this state if the person:

- (1) is licensed to practice law in this state; and

(2) at the time the bond is executed or the person acts as a surety, files a notice of appearance as counsel of record in the criminal case for which the bond was executed or surety provided or submits proof that the person has previously filed with the court in which the criminal case is pending the notice of appearance as counsel of record.

(b) A person executing a bail bond or acting as a surety under this section may not engage in conduct involved with that practice that would subject a bail bond surety to license suspension or revocation. If the board determines that a person has violated this subsection, the board may suspend or revoke the person's authorization to post a bond under this section or may bar the person from executing a bail bond or acting as a surety under this section until the person has remedied the violation.

(c) A person executing a bail bond or acting as a surety under this section is not relieved of liability on the bond solely because the person is later replaced as attorney of record in the criminal case.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1262, Sec. 7, eff. Sept. 1, 2001. Amended by: Acts 2005, 79th Leg., Ch. [316](#), Sec. 3, eff. September 1, 2005.

SUBCHAPTER E. BONDING BUSINESS

Sec. 1704.201. **ACCEPTANCE OF LICENSE HOLDER BAIL BONDS.** A sheriff shall accept or approve a bail bond executed by a license holder in the county in which the license holder is licensed if:

- (1) the bond is for a county or district case;
- (2) the bond is executed in accordance with this chapter and the rules adopted by the board; and
- (3) a bail bond is required as a condition of release of the defendant for whom the bond is executed.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 1704.202. **RECORD REQUIREMENTS.** (a) A license holder shall maintain:

- (1) a record of each bail bond executed by the license holder; and
- (2) a separate set of records for each county in which the license holder is licensed.

(b) The records required to be maintained under this section must include for each bail bond executed and enforced:

- (1) the style and number of the case and the court in which the bond is executed;
- (2) the name of the defendant released on bond;
- (3) the amount of bail set in the case;
- (4) the amount and type of security held by the license holder; and

(5) a statement of:

(A) whether the security held by the license holder is:

(i) for the payment of a bail bond fee; or

(ii) to assure the principal's appearance in court; and

(B) the conditions under which the security will be returned.

(c) Repealed by Acts 2003, 78th Leg., ch. 942, Sec. 28.

(d) The records required under this section shall be:

(1) made available for inspection and copying at the board's expense on demand by the board or an authorized representative of the board;

(2) maintained at the license holder's office location in the county;
and

(3) maintained for not less than four years after the conclusion of the case for which the bond was given.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 942, Sec. 20, 28, eff. June 20, 2003.

Sec. 1704.203. **BAIL BOND LIMIT; ADDITIONAL SECURITY.** (a) Except as provided by Subsection (d), a license holder who holds a license originally issued before September 1, 1999, may not execute, and a person may not accept from the license holder, a bail bond that, in the aggregate with other bail bonds executed by the license holder in that county, results in a total amount that exceeds 10 times the value of the security deposited or executed by the license holder under Section 1704.160.

(b) A county officer or an employee designated by the board shall maintain for each license holder the total amount of the license holder's current liability on bail bonds.

(c) A license holder may not execute a bail bond if the amount of the license holder's current total liability on judgments nisi in that county equals or exceeds twice the amount of security deposited or executed by the license holder under Section 1704.160.

(d) A license holder, at any time, may increase the limits prescribed by this section by depositing or executing additional security.

(e) This section does not apply to a license holder that is a corporation.

(f) A bail bond surety who holds a license originally issued on or after September 1, 1999, and who:

(1) has been licensed for fewer than two years or has had a license under this chapter suspended or revoked may not execute, and a person may not accept from the license holder, bail bonds that in the aggregate exceed 10 times the value of property held as security under Section 1704.160(a)(1)(A) plus five times the value of property held in trust under Section 1704.160(a)(1)(B);

(2) has been licensed for at least two years and fewer than four years may not execute, and a person may not accept from the license holder, bail bonds that in the aggregate exceed 10 times the value of property held as security under Section 1704.160(a)(1)(A) plus six times the value of property held in trust under Section 1704.160(a)(1)(B);

(3) has been licensed for at least four years and fewer than six years may not execute, and a person may not accept from the license holder, bail bonds that in the aggregate exceed 10 times the value of property held as security under Section 1704.160(a)(1)(A) plus eight times the value of property held in trust under Section 1704.160(a)(1)(B); or

(4) has been licensed for at least six years may not execute, and a person may not accept from the license holder, bail bonds that in the aggregate exceed 10 times the value of property held as security under Section 1704.160(a)(1)(A) plus 10 times the value of property held in trust under Section 1704.160(a)(1)(B).

(g) If a bail bond surety is subject to Subsection (f)(1) because the person has had a license under this chapter suspended or revoked and is also subject to Subsection (f)(2), (3), or (4), the prohibition imposed by Subsection (f)(1) controls.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.506(a), eff. Sept. 1, 2001.

Sec. 1704.204. **PAYMENT OF FINAL JUDGMENT.** (a) A person shall pay a final judgment on a forfeiture of a bail bond executed by the person not later than the 31st day after the date of the final judgment unless a timely motion for a new trial has been filed. If a timely motion for a new trial or a notice of appeal has been filed, the person shall:

(1) pay the judgment not later than the 31st day after the date the motion is overruled, if the motion is overruled; or

(2) deposit with the court cash or a supersedes bond in the amount of the final judgment, if an appeal is filed.

(b) If a license holder fails to pay a final judgment as required by Subsection (a), the judgment shall be paid from the security deposited or executed by the license holder under Section 1704.160.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 942, Sec. 21, eff. June 20, 2003.

Sec. 1704.205. **BAIL BOND SETTLEMENT.** Before a final judgment on a forfeiture of a bail bond:

- (1) the prosecuting attorney may recommend to the court a settlement in an amount less than the amount stated in the bond; or
- (2) the court may, on its own motion, approve a settlement.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 1704.206. **REPLACEMENT OF SECURITY.** If a final judgment on a forfeiture of a bail bond is paid from the security deposited or executed by a license holder under Section 1704.160, the license holder shall deposit or execute additional security in an amount sufficient to comply with that section.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 1704.207. **SURRENDER OF PRINCIPAL; CONTEST.** (a) A person executing a bail bond may surrender the principal for whom the bond is executed by:

- (1) if the principal is represented by an attorney, notifying the principal's attorney of the person's intention to surrender the principal in a manner provided by Rule 21a, Texas Rules of Civil Procedure; and

- (2) filing an affidavit with the court or magistrate before which the prosecution is pending that states:

- (A) the person's intention to surrender the principal;
- (B) the court and cause number of the case;
- (C) the name of the defendant;
- (D) the offense with which the defendant is charged;
- (E) the date of the bond;
- (F) the reason for the intended surrender; and

(G) that notice of the person's intention to surrender the principal has been provided as required by this subsection.

(b) If a principal is surrendered under Subsection (a) and the principal or an attorney representing the state or an accused in the case determines that a reason for the surrender was without reasonable cause, the person may contest the surrender in the court that authorized the surrender.

(c) If the court finds that a contested surrender was without reasonable cause, the court may require the person who executed the bond to refund to the principal all or part of the fees paid for execution of the bond. The court shall identify the fees paid to induce the person to execute the bond regardless of whether the fees are described as fees for execution of the bond.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1262, Sec. 8, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 942, Sec. 22, eff. June 20, 2003.

Sec. 1704.208. **BOND LIABILITY.** (a) A person executing a bail bond is relieved of liability on the bond on the date of disposition of the case for which the bond is executed.

(b) For purposes of this section, disposition of a case occurs on the date the case is dismissed or the principal is acquitted or convicted.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 1704.209. **BOND DISCHARGED ON APPEAL.** (a) A bail bond shall be discharged if:

- (1) the principal appeals the case for which the bond is executed; and
- (2) the person who executed the bond does not agree to continue during the appeal as surety.

(b) A court may not require a person who executes a bail bond to continue as surety while the principal appeals the case for which the bond is executed unless the person agrees to continue during the appeal as surety.

(c) This section does not prohibit a principal from obtaining an appeal bond under the Code of Criminal Procedure.

(d) This section prevails over any provision contained in the bail bond.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 1704.210. **WITHDRAWAL OF SECURITY.** (a) A license holder may withdraw the security or a portion of the security deposited or executed under Section 1704.160, and the security shall be returned to the license holder or the license holder's heirs or assigns, if the person requesting the withdrawal is:

(1) a license holder in good standing and the amount of the security remaining after the withdrawal is:

(A) at least the minimum amount required by Section 1704.160; and

(B) an amount sufficient to maintain the ratios required by Section 1704.203; or

(2) a former license holder who has ceased to engage in the bonding business, or a former license holder's heir or assign, and the amount of the security remaining after the withdrawal is sufficient to:

(A) pay any outstanding judgments; and

(B) secure any unexpired obligation on a bail bond executed by the former license holder.

(b) The board may adopt rules to limit the number of times in a year security may be returned to a license holder under this section.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. [1143](#), Sec. 1, eff. September 1, 2011.

Sec. 1704.211. **CORPORATE POWER OF ATTORNEY.** (a) A corporation shall, before executing any bail bond, file with the county clerk of the county in which the corporation intends to execute the bond a power of attorney designating an agent of the corporation authorized to execute bail bonds on behalf of the corporation.

(b) An agent designated by a power of attorney under Subsection (a) for a corporation holding a license under this chapter must be designated by the corporation in the corporation's application for a license.

(c) An agent designated by a power of attorney under Subsection (a) is not required under this chapter to obtain a general property and casualty agent license under Chapter 4051, Insurance Code.

(d) A corporation may limit the authority of an agent designated under Subsection (a) by specifying the limitation in the power of attorney that is filed with the county clerk and the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1262, Sec. 9, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. [728](#), Sec. 11.152, eff. September 1, 2005.

Sec. 1704.212. **EFFECT OF DEFAULT BY CORPORATION; NOTICE REQUIRED.** (a) A corporation may not act as a bail bond surety in a county in which the corporation is in default on five or more bail bonds.

(b) If a corporation defaults on a bail bond, the clerk of the court in which the corporation executed the bond shall deliver a written notice of the default to:

- (1) the sheriff;
- (2) the chief of police; or
- (3) another appropriate peace officer.

(c) For purposes of this section:

(1) a corporation is considered in default on a bail bond beginning on the 11th day after the date the trial court enters a final judgment on the scire facias and ending on the date the judgment is satisfied, set aside, or superseded; and

(2) a corporation is not considered in default on a bail bond if, pending appeal, the corporation deposits cash or a supersedes bond in the amount of the final judgment with the court in which the bond is executed.

(d) A deposit made under Subsection (c)(2) shall be applied to the payment of a final judgment in the case.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1262, Sec. 10, eff. Sept. 1, 2001.

Sec. 1704.213. **OFFICE LOCATION.** (a) A license holder shall maintain an office in the county in which the license holder holds a license.

(b) Not later than the seventh day after the date a license holder opens a new office or moves an office to a new location, the license holder shall notify the board of the location of the office.

Added by Acts 2001, 77th Leg., ch. 1262, Sec. 11, eff. Sept. 1, 2001.

SUBCHAPTER F. ENFORCEMENT PROVISIONS

Sec. 1704.251. **INVESTIGATION.** (a) A board, on its own motion, may investigate an action of or a record maintained by a license holder that relates to a complaint that the license holder has violated this chapter.

(b) A board shall investigate an action of or a record maintained by a license holder if:

- (1) the board receives a sworn complaint providing reasonable cause to believe that a violation of this chapter has occurred; or
- (2) a court requests an investigation.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 1704.252. **DISCRETIONARY LICENSE SUSPENSION OR REVOCATION: GROUNDS.** After notice and hearing, a board may revoke or suspend a license if the license holder:

- (1) violates this chapter or a rule adopted by the board under this chapter;
- (2) fraudulently obtains a license under this chapter;
- (3) makes a false statement or misrepresentation:
 - (A) in an application for an original or renewal license; or
 - (B) during a hearing conducted by the board;
- (4) refuses to answer a question submitted by the board during a hearing relating to the license holder's license, conduct, or qualifications;
- (5) is finally convicted under the laws of this state, another state, or the United States of an offense that:
 - (A) is a misdemeanor involving moral turpitude or a felony; and
 - (B) is committed after August 27, 1973;
- (6) is found by a court to be bankrupt or is insolvent;
- (7) is found by a court to be mentally incompetent;
- (8) fails to pay a judgment in accordance with Section 1704.204;
- (9) pays commissions or fees to or divides commissions or fees with, or offers to pay commissions or fees to or divide commissions or fees with, a person or business entity not licensed under this chapter;

(10) solicits bonding business in a building in which prisoners are processed or confined;

(11) recommends to a client the employment of a particular attorney or law firm in a criminal case;

(12) falsifies or fails to maintain a record required under this chapter;

(13) fails to promptly permit the board, or a representative or an agent of the board, of the county in which the license holder is licensed to inspect a record required under this chapter;

(14) acts as a bail bond surety under a suspended or expired license;

(15) fails two or more times to maintain the amount of security required by Section 1704.160; or

(16) misrepresents to an official or an employee of the official the amount for which the license holder may execute a bail bond for purposes of obtaining the release of a person on bond.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 1704.253. **MANDATORY LICENSE SUSPENSION OR REVOCATION: GROUNDS.** (a) A board shall immediately suspend a license if the license holder fails to maintain the amount of security required by Section 1704.160. A board is not required to provide notice or a hearing before suspending a license under this subsection. A license suspended under this subsection shall be immediately reinstated if the license holder deposits or executes the amount of security required by Section 1704.160.

(b) After notice and hearing as provided by Section 1704.254, a board shall revoke a license if:

(1) the license holder fails to pay a judgment in accordance with Section 1704.204; and

(2) the amount of security maintained by the license holder under Section 1704.160 is insufficient to pay the judgment.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 1704.2535. **FAILURE TO PAY FINAL JUDGMENT BY BAIL BOND SURETY.** (a) The board or its authorized representative shall immediately notify the sheriff if a bail

bond surety fails to pay a final judgment of forfeiture as provided by Section 1704.204(a).

(b) After receiving notification, the sheriff may not accept any bonds from the bail bond surety until the surety pays the judgment.

(c) The bail bond surety's privilege to post bonds is reinstated when the bail bond surety pays the judgment.

(d) A board is not required to provide notice or a hearing before making the notification required by this section.

Added by Acts 2003, 78th Leg., ch. 942, Sec. 23, eff. June 20, 2003.

Sec. 1704.254. **NOTICE AND HEARING.** (a) Notice of a hearing to suspend or revoke a license under this chapter must:

(1) be sent by certified mail to the last known address of the license holder not later than the 11th day before the date of the hearing;

(2) state each alleged violation of this chapter; and

(3) include a copy of any written complaint on which the hearing will be based.

(b) The hearing is limited to each alleged violation stated in the notice.

(c) During the hearing, the license holder:

(1) is entitled to an opportunity to be heard; and

(2) may present and cross-examine witnesses.

(d) The hearing must be recorded. A license holder may obtain a copy of the record on request and payment of the reasonable costs of transcription.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 942, Sec. 24, eff. June 20, 2003.

Sec. 1704.255. **APPEAL; VENUE.** (a) An applicant or a license holder may appeal an order of a board denying an application for a license or renewal of a license, or suspending or revoking a license, by filing a petition in a district court in the county not later than the 30th day after the date the person receives notice of the denial, suspension, or revocation.

(b) An appeal filed under this section is an action against the board. An applicant or a license holder may not bring the action against an individual board member.

(c) The board may not assert a reason on appeal for an action by the board that differs from the reasons specified in the board's notice of hearing under Section 1704.254.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 942, Sec. 25, eff. June 20, 2003.

Sec. 1704.256. **STANDARD OF JUDICIAL REVIEW.** Judicial review of an appeal filed under Section 1704.255 is by trial de novo in the same manner as an appeal from a justice court to a county court.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 1704.257. **EFFECT OF BOARD ORDER.** (a) A board order denying an application for a license or renewal of a license, or suspending or revoking a license, becomes final on the 31st day after the date the applicant or license holder receives notice of the order unless the applicant or license holder files an appeal under Section 1704.255.

(b) A board order appealed under Section 1704.255 has full force and effect pending determination of the appeal.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER G. PROHIBITED CONDUCT AND CRIMINAL PENALTIES

Sec. 1704.301. **RETURN OF SECURITY.** A bail bond surety may not hold security for the payment of a bail bond fee or to assure the principal's appearance in court for more than 30 days after the date on which the owner of the security:

- (1) requests return of the security in writing; and
- (2) submits to the bail bond surety written evidence of the conclusion

of:

- (A) the payment agreement; or
- (B) all of the criminal cases for which the security was given.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 942, Sec. 26, eff. June 20, 2003.

Sec. 1704.302. **PROHIBITED REFERRALS OF OR EMPLOYMENTS WITH BONDING BUSINESS; OFFENSE.** (a) A person in the bonding business may not directly or indirectly give,

donate, lend, or contribute, or promise to give, donate, lend, or contribute, money or property to an attorney, police officer, sheriff, deputy, constable, jailer, or employee of a law enforcement agency for the referral of bonding business.

(b) A person may not accept or receive from a license holder money, property, or any other thing of value as payment for the referral of bonding business unless the records of the board show that the person is an agent or employee of the license holder.

(c) A person may not accept or receive from a license holder money, property, or any other thing of value as payment for employment with a bonding business if, within the preceding 10 years, the person has been convicted of a misdemeanor involving moral turpitude or of a felony.

(d) A person commits an offense if the person violates this section. An offense under this section is a Class A misdemeanor.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1262, Sec. 13, eff. Sept. 1, 2001.

Sec. 1704.303. **BAIL BOND SURETY ACTIVITY; OFFENSE.** (a) A person required to be licensed under this chapter may not execute a bail bond unless the person holds a license issued under this chapter.

(b) A person may not advertise as a bail bond surety in a county unless the person holds a license issued under this chapter by a bail bond board in that county. A person does not violate this subsection if the person places an advertisement that appears in more than one county and:

(1) the advertisement clearly indicates the county or counties in which the person holds a license issued under this chapter; and

(2) any local telephone number in the advertisement is a local number only for a county in which the person holds a license issued under this chapter.

(c) A person commits an offense if the person violates this section. An offense under this section is a Class B misdemeanor.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1262, Sec. 14, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1461, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 942, Sec. 27, eff. June 20, 2003.

Sec. 1704.304. **PROHIBITED RECOMMENDATIONS OR SOLICITATIONS; OFFENSE.** (a) A bail bond surety or an agent of a bail bond surety may not recommend or suggest to a

person for whom the bail bond surety executes a bond the employment of an attorney or law firm in connection with a criminal offense.

(b) The following persons may not recommend a particular bail bond surety to another person:

- (1) a police officer, sheriff, or deputy;
- (2) a constable, jailer, or employee of a law enforcement agency;
- (3) a judge or employee of a court;
- (4) another public official; or
- (5) an employee of a related agency.

(c) A bail bond surety or an agent of a bail bond surety may not solicit bonding business in a police station, jail, prison, detention facility, or other place of detainment for persons in the custody of law enforcement.

(d) A person may not place a device in a place of detention, confinement, or imprisonment that dispenses a bail bond in exchange for a fee.

(e) A person commits an offense if the person violates this section. An offense under this section is a Class B misdemeanor.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1262, Sec. 15, eff. Sept. 1, 2001.

Sec. 1704.305. **BAIL BOND RECEIPT AND INSPECTION; OFFENSE.** (a) A bail bond surety or an agent of a bail bond surety may not receive money or other consideration or thing of value from a person for whom the bail bond surety executes a bond unless the bail bond surety or agent issues a receipt to the person as provided by Subsection (b).

(b) The receipt must state:

- (1) the name of the person who pays the money or transfers the consideration or thing of value;
- (2) the amount of money paid or the estimated amount of value transferred;
- (3) if the person transfers consideration or a thing of value, a brief description of the consideration or thing of value;
- (4) the style and number of the case and the court in which the bond is executed; and
- (5) the name of the person receiving the money, consideration, or thing of value.

(c) A bail bond surety or an agent of a bail bond surety shall retain a duplicate copy of a receipt issued under Subsection (a). The copy of the receipt shall be made available for inspection by:

(1) a representative of the board in any county in which the bail bond surety is licensed; and

(2) an appointed representative of a court in which the bail bond surety agrees to execute bail bonds.

(e) A person commits an offense if the person violates this section. An offense under this section is a Class B misdemeanor.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 1704.306. **RECORDS; OFFENSE.** (a) A person commits an offense if the person falsifies a record required to be maintained under this chapter.

(b) An offense under this section is a Class B misdemeanor.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

PROCEDURE

CHAPTER 22. FORFEITURE OF BAIL

Art. 22.01. [424] [488] [476] BAIL FORFEITED, WHEN. When a defendant is bound by bail to appear and fails to appear in any court in which such case may be pending and at any time when his personal appearance is required under this Code, or by any court or magistrate, a forfeiture of his bail and a judicial declaration of such forfeiture shall be taken in the manner provided in Article 22.02 of this Code and entered by such court.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966. Amended by Acts 1981, 67th Leg., p. 886, ch. 312, Sec. 2, eff. Aug. 31, 1981.

Art. 22.02. [425] [489] [477] MANNER OF TAKING A FORFEITURE. Bail bonds and personal bonds are forfeited in the following manner: The name of the defendant shall be called distinctly at the courthouse door, and if the defendant does not appear within a reasonable time after such call is made, judgment shall be entered that the State of Texas recover of the defendant the amount of money in which he is bound, and of his sureties, if any, the amount of money in which they are respectively bound, which judgment shall state that the same will be made final, unless good cause be shown why the defendant did not appear.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Art. 22.021. FORFEITURE AFTER VIOLATING TREATMENT CONDITION. On its own motion or the motion of the attorney for the state, the magistrate who set a defendant's bond or before whom a prosecution is pending may issue a warrant for the arrest of the defendant for a violation of a condition of the defendant's bond under Article 17.40 of this code. If, at a hearing, the magistrate determines that the defendant violated the condition without sufficient cause, the magistrate shall forfeit the defendant's bond and enter a final judgement of forfeiture. Citation shall be issued as provided by this chapter, except that the citation is sufficient if it is in the form provided for citations in civil cases.

Acts 1983, 68th Leg., p. 3206, ch. 551, Sec. 2, eff. Sept. 1, 1983.

Art. 22.03. CITATION TO SURETIES. (a) Upon entry of judgment, a citation shall issue forthwith notifying the sureties of the defendant, if any, that the bond has been forfeited, and requiring them to appear and show cause why the judgment of forfeiture should not be made final.

(b) A citation to a surety who is an individual shall be served to the individual at the address shown on the face of the bond.

(c) A citation to a surety that is a corporation or other entity shall be served to the attorney designated for service of process by the corporation or entity under Chapter 804, Insurance Code.

(d) By filing the waiver or designation in writing with the clerk of the court, a surety may waive service of citation or may designate a person other than the surety or the surety's attorney to receive service of citation under this article. The waiver or designation is effective until a written revocation is filed with the clerk.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Amended by Acts 2005, 79th Leg., ch. 743, Sec. 3, eff. Sept. 1, 2005.

Art. 22.04. REQUISITES OF CITATION. A citation shall be sufficient if it be in the form provided for citations in civil cases in such court; provided, however, that a copy of the judgment of forfeiture entered by the court, a copy of the forfeited bond, and a copy of any power of attorney attached to the forfeited bond shall be attached to the citation and the citation shall notify the parties cited to appear and show cause why the judgment of forfeiture should not be made final.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Amended by Acts 2005, 79th Leg., ch. 743, Sec. 4, eff. Sept. 1, 2005.

Art. 22.05. CITATION AS IN CIVIL ACTIONS. If service of citation is not waived under Article 22.03, a surety is entitled to notice by service of citation, the length of time and in the manner required in civil actions; and the officer executing the citation shall return the same as in civil actions. It shall not be necessary to give notice to the defendant unless he has furnished his address on the bond, in which event notice to the defendant shall be deposited in the United States mail directed to the defendant at the address shown on the bond.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Amended by Acts 2005, 79th Leg., ch. 743, Sec. 5, eff. Sept. 1, 2005.

Art. 22.06. [429] [493] [481] CITATION BY PUBLICATION. Where the surety is a nonresident of the State, or where he is a transient person, or where his residence is unknown, the district or county

attorney may, upon application in writing to the county clerk, stating the facts, obtain a citation to be served by publication; and the same shall be served by a publication and returned as in civil actions.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Art. 22.07. [430] [494] [482] COST OF PUBLICATION. When service of citation is made by publication, the county in which the forfeiture has been taken shall pay the costs thereof, to be taxed as costs in the case.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Art. 22.08. [431] [495] [483] SERVICE OUT OF THE STATE. Service of a certified copy of the citation upon any absent or non-resident surety may be made outside of the limits of this State by any person competent to make oath of the fact; and the affidavit of such person, stating the facts of such service, shall be a sufficient return.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Art. 22.09. [432] [496] [484] WHEN SURETY IS DEAD. If the surety is dead at the time the forfeiture is taken, the forfeiture shall nevertheless be valid. The final judgment shall not be rendered where a surety has died, either before or after the forfeiture has been taken, unless his executor, administrator or heirs, as the case may be, have been cited to appear and show cause why the judgment should not be made final, in the same manner as provided in the case of the surety.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Art. 22.10. [433] [497] [485] SCIRE FACIAS DOCKET. When a forfeiture has been declared upon a bond, the court or clerk shall docket the case upon the scire facias or upon the civil docket, in the name of the State of Texas, as plaintiff, and the principal and his sureties, if any, as defendants; and, except as otherwise provided by this chapter, the proceedings had therein shall be governed by the same rules governing other civil suits.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966. Amended by Acts 1981, 67th Leg., p. 886, ch. 312, Sec. 3, eff. Aug. 31, 1981.

Amended by Acts 1999, 76th Leg., ch. 1506, Sec. 4, eff. Sept. 1, 1999.

Art. 22.11. [434] [498] [486] SURETIES MAY ANSWER. After the forfeiture of the bond, if the sureties, if any, have been duly notified, the sureties, if any, may answer in writing and show cause why the defendant did not appear, which answer may be filed within the time limited for answering in other civil actions.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Art. 22.12. [435] [499] [487] PROCEEDINGS NOT SET ASIDE FOR DEFECT OF FORM. The bond, the judgment declaring the forfeiture, the citation and the return thereupon, shall not be set aside because of any defect of form; but such defect of form may, at any time, be amended under the direction of the court.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Art. 22.125. POWERS OF THE COURT. After a judicial declaration of forfeiture is entered, the court may proceed with the trial required by Article 22.14 of this code. The court may exonerate the defendant and his sureties, if any, from liability on the forfeiture, remit the amount of the forfeiture, or set aside the forfeiture only as expressly provided by this chapter. The court may approve any proposed settlement of the liability on the forfeiture that is agreed to by the state and by the defendant or the defendant's sureties, if any.

Acts 1981, 67th Leg., p. 886, ch. 312, Sec. 4, eff. Aug. 31, 1981. Renumbered from art. 22.12a by Acts 1987, 70th Leg., ch. 167, Sec. 5.02(1), eff. Sept. 1, 1987.

Amended by Acts 1999, 76th Leg., ch. 1506, Sec. 5, eff. Sept. 1, 1999.

Art. 22.13. CAUSES WHICH WILL EXONERATE. (a) The following causes, and no other, will exonerate the defendant and his sureties, if any, from liability upon the forfeiture taken:

1. That the bond is, for any cause, not a valid and binding undertaking in law. If it be valid and binding as to the principal, and one or more of his sureties, if any, they shall not be exonerated from liability because of its being invalid and not binding as to another surety or sureties, if any. If it be invalid and not binding as to the principal, each of the sureties, if any, shall be exonerated from liability. If it be valid and binding as to the principal, but not so as to the sureties, if any, the principal shall not be exonerated, but the sureties, if any, shall be.

2. The death of the principal before the forfeiture was taken.

3. The sickness of the principal or some uncontrollable circumstance which prevented his appearance at court, and it must, in every such case, be shown that his failure to appear arose from no fault on his part. The causes mentioned in this subdivision shall not be deemed sufficient to exonerate the principal and his sureties, if any, unless such principal appear before final judgment on the bond to answer the accusation against him, or show sufficient cause for not so appearing.

4. Failure to present an indictment or information at the first term of the court which may be held after the principal has been admitted to bail, in case where the party was bound over before indictment or information, and the prosecution has not been continued by order of the court.

5. The incarceration of the principal in any jurisdiction in the United States:

(A) in the case of a misdemeanor, at the time of or not later than the 180th day after the date of the principal's failure to appear in court; or

(B) in the case of a felony, at the time of or not later than the 270th day after the date of the principal's failure to appear in court.

(b) A surety exonerated under Subdivision 5, Subsection (a), remains obligated to pay costs of court, any reasonable and necessary costs incurred by a county to secure the return of the principal, and interest accrued on the bond amount from the date of the judgment nisi to the date of the principal's incarceration.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Amended by Acts 2003, 78th Leg., ch. 942, Sec. 1, eff. June 20, 2003.

Art. 22.14. [437] [501] [489] JUDGMENT FINAL. When, upon a trial of the issues presented, no sufficient cause is shown for the failure of the principal to appear, the judgment shall be made final against him and his sureties, if any, for the amount in which they are respectively bound; and the same shall be collected by execution as in civil actions. Separate executions shall issue against each party for the amount adjudged against him. The costs shall be equally divided between the sureties, if there be more than one.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Art. 22.15. [438] [502] [490] JUDGMENT FINAL BY DEFAULT. When the sureties have been duly cited and fail to answer, and the principal also fails to answer within the time limited for answering in other civil actions, the court shall enter judgment final by default.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966.

Art. 22.16. REMITTITUR AFTER FORFEITURE. (a) After forfeiture of a bond and before entry of a final judgment, the court shall, on written motion, remit to the surety the amount of the bond, after deducting the costs of court and any reasonable and necessary costs to the county for the return of the principal, and the interest accrued on the bond amount as provided by Subsection (c) if the principal is released on new bail in the case or the case for which bond was given is dismissed.

(b) For other good cause shown and before the entry of a final judgment against the bond, the court in its discretion may remit to the surety all or part of the amount of the bond after deducting the costs of court and any reasonable and necessary costs to the county for the return of the principal, and the interest accrued on the bond amount as provided by Subsection (c).

(c) For the purposes of this article, interest accrues on the bond amount from the date of forfeiture in the same manner and at the same rate as provided for the accrual of prejudgment interest in civil cases.

Acts 1965, 59th Leg., p. 317, ch. 722, Sec. 1, eff. Jan. 1, 1966. Amended by Acts 1981, 67th Leg., p. 886, ch. 312, Sec. 5, eff. Aug. 31, 1981; Acts 1987, 70th Leg., ch. 1047, Sec. 3, eff. June 20, 1987.

Amended by Acts 2003, 78th Leg., ch. 942, Sec. 2, eff. June 20, 2003.

Art. 22.17. [440] [504] [492] SPECIAL BILL OF REVIEW. (a) Not later than two years after the date a final judgment is entered in a bond forfeiture proceeding, the surety on the bond may file with the court a special bill of review. A special bill of review may include a request, on equitable grounds, that the final judgment be reformed and that all or part of the bond amount be remitted to the surety, after deducting the costs of court, any reasonable costs to the county for the return of the principal, and the interest accrued on the bond amount from the date of forfeiture. The court in its discretion may grant or deny the bill in whole or in part.

(b) For the purposes of this article, interest accrues on the bond amount from the date of:

(1) forfeiture to the date of final judgment in the same manner and at the same rate as provided for the accrual of prejudgment interest in civil cases; and

(2) final judgment to the date of the order for remittitur at the same rate as provided for the accrual of postjudgment interest in civil cases.

Acts 1987, 70th Leg., ch. 1047, Sec. 4, eff. June 20, 1987.

Art. 22.18. LIMITATION. An action by the state to forfeit a bail bond under this chapter must be brought not later than the fourth anniversary of the date the principal fails to appear in court.

Added by Acts 1999, 76th Leg., ch. 1506, Sec. 6, eff. Sept. 1, 1999.