

# Records Required of Bail Bond Companies in Counties with Bail Bond Boards

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# What are bail bond boards?

- Local governmental entities created pursuant to Occupations Code, Chapter 1704 to regulate the bail bond industry in certain counties.

- **Sec. 1704.051. Mandatory Creation of Board**

- A board is created in each county with a population of 110,000 or more.

- **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.

What counties currently have bail bond boards?

Anderson	Fort Bend	Johnson	Randall
Angelina	Galveston	Kerr	Red River
Bell	Grayson	Lamar	Rockwall
Bexar	Gregg	Lamb	San Patricio
Bowie	Grimes	Leon	Smith
Brazoria	Guadalupe	Liberty	Tarrant
Brazos	Hale	Limestone	Taylor
Burnet	Harris	Lubbock	Titus
Cameron	Harrison	Matagorda	Tom Green
Collin	Hays	McLennan	Walker
Comal	Hidalgo	Midland	Washington
Dallas	Hood	Montgomery	Webb
Denton	Hopkins	Navarro	Wharton
Ector	Houston	Nueces	Wichita
El Paso	Hudspeth	Orange	Willacy
Ellis	Jasper	Parker	Williamson
Erath	Jefferson	Polk	Wise
Fannin	Jim Wells	Potter	

# In the smaller (discretionary) counties, why do boards typically get created?

- Because the sheriff wants to share the responsibility of deciding who can be surety on bail bonds in the county
- To regulate the conduct of bail bond sureties in the county
- To make sure that bail bond forfeiture judgments are paid

In a discretionary county, can the county later abolish the board?

- No, see AG Op. GA-0663 (2008)

# What are the board's 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 or in a separate county fund established for this purpose;
- (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.

## **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.

What records does the  
Occupations Code  
require a bail bond  
surety to create and  
keep?

## **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, § 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.

**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.

**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.

**Are there other records that a bail bond surety might be required to keep?**

Yes, if the board by local rule has created other record-keeping obligations.

## Remember the board's powers

### **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 or in a separate county fund established for this purpose;

***(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.

In the highlighted areas, the courts have given the boards broad latitude to regulate the conduct of bail bond sureties

Here are some  
samples of additional  
records that some  
counties' local rules  
require

# Williamson County

- Rule 603, Monthly Reports
- Not later than the tenth day of each month, each licensee shall e-mail the Secretary of the Board complete information regarding outstanding bonds on a form approved by the Secretary.

# Tom Green County

## 6.1 Writing Bonds. OC SEC 1704.202

Bonds **shall** be made under the following regulations:

- a. Within three (3) days of the principal's release on the bond, a contract shall be executed between the surety and the principal and a copy given to the principal immediately after signing.
- b. The contract shall set forth all the following information:
  1. The amount of the bond fee. If the contract is for more than one bond, then the fee for each bond shall be set out separately together with a total fee.
  2. The amount of any late fees or penalties and the conditions under which they may be imposed.
  3. Any finance charges.
  4. Any payment schedule, which shall include any down payment collected, how often a payment is due, how much the payment is, what date the first payment is due and when the subsequent payments are due.
  5. The amount and type of property taken for payment of the bail bond fee.
  6. The amount and type of property held by the bail bond surety for assurance of the principal's appearance in court and the conditions under which the property will be returned.
  7. The contract must be signed and dated by both surety and principal at the time the agreement is executed
- c. A bail bond surety may, at any time, by posting additional security, increase the bail bond surety's limit pursuant to Rule 5.2.a, and may, after board approval, increase the bail bond surety's limit as provided by Rule 5.2.b.
- d. These items are all subject to audit and are required to be in each client's folder. Failure to do so may result in a suspension or revocation hearing.

# Tarrant County

Rule 6. A bondsman shall not charge a fee for making a bond in an amount in excess of the amount of the bond.

Rule 7. A receipt shall be given to the principal or other person on behalf of the principal who gives money or property to a bondsman as collateral to secure either the payment of the bond fee or performance on the bond. If property is given, the receipt shall describe said property, including serial numbers, VIN' s, etc. The receipt shall state whether the collateral is held to secure the fee, the performance, or both.

If the collateral is to be forfeited, the person giving said collateral shall be given ten (10) days notice of said intended forfeiture. The notice shall be sent by certified mail to the last known address. The property may be sold for its fair market value and the defendant' s account credited for said amount. The defendant or party giving the collateral shall then be notified of the account balance and any surplus remitted to the person posting said collateral . *A bondsman or attorney may hold collateral in connection with a bail bond for only two purposes: securing payment of the bond fee, and securing the client's appearances in court. Collateral may not be held or forfeited for the violation of any other contractual provision between the surety and the client.*

# Tarrant County (cont'd.)

## Rule 8.

(a) A bondsman shall maintain a file on each principal for whom he writes a bond. The file shall contain the information required under Chapter 1704 of the Texas Occupations Code. Especially § 1704.202 and § 1704.305 as well as any information required to be maintained by the local Rules herein.

(b) Within 30 days after initial licensing as a bondsman in Tarrant County or within 30 days after the renewal of any license to act as a bondsman issued by the Tarrant County Bail Bond Board, a licensee must submit a written designation to the secretary of the Bail Bond Board providing a Tarrant County address at which his bail bond business records shall be kept. These records shall remain accessible at that location to a representative of the Bail Bond Board in accordance with the laws of this state and the local rules of this board, unless and until the licensee submits an amended designation, in the same manner, stating a different address within the county.

(c) For purposes of Texas Occupations Code § 1704.213, an “office” shall mean a designated street address at which a license holder currently maintains and stores all records related to his or her bail bond business which are required to be kept by statute or local rules and at which a licensee shall be amenable to service of process in connection with his or her bail bond surety business.

# Tarrant County (cont'd.)

Rule 10. The bondsman has the responsibility of notifying the principal of all court settings. A record of such notice shall be kept in the file required by Rule No. 8(a). Such file shall be kept for a period of one year from the date the bond is discharged.

Rule 40. Whenever a licensee executes or will execute a bail bond as an agent for a corporate surety, he must inform the person paying him for the bond in a written notice that the bond will be made as an obligation of the corporate surety. The written notice shall name the particular corporate surety, and shall be kept in the licensee's file in the same manner as the receipt for payment.

# Tarrant County (cont'd.)

Rule 43. When a bondsman or an agent or an attorney operating under the attorney exception takes money or property in exchange for making a bond, he or she must provide the following notice in English and Spanish to the person paying the money or providing the property:

**NOTICE REGARDING ALIENS WHO  
MAKE BOND**

*An alien incarcerated for criminal charges in the United States may be subject to detention and deportation by the United States government. Detention and deportation are particularly likely for aliens who are in the United States illegally.*

*Bonds for criminal charges have no effect on detention and deportation proceedings or possibilities. An alien who makes bond on all state criminal charges may, in some cases, never obtain release from jail before disposing of his or her criminal case. Furthermore, he or she may be subject to deportation at any time.*

*An alien making a bail bond and his or her bondsman may remain liable on the bond when the alien fails to appear for court due to deportation from the United States.*

*Finally, it should be noted that anyone who encourages or aids an alien to enter or reenter the United States illegally may be subject to criminal prosecution, as may anyone who encourages or aids an alien to intentionally or knowingly fail to appear for court proceedings as promised in a bail bond.*

**NOTIFICACIÓN REFERENTE A PERSONAS INDOCUMENTADAS QUE UTILIZAN FIANZAS**

*Una persona indocumentada que haya sido encarcelada por cargos criminales dentro de los Estados Unidos, puede ser detenida y deportada por el gobierno federal. La detención y deportación son muy probables para aquellas personas que estén de manera ilegal en los Estados Unidos.*

*Las fianzas para cargos criminales no tienen efecto alguno en los procedimientos o posibilidades de detención y/o deportación. Una persona indocumentada que utiliza una fianza en cualquier cargo criminal podría, en algunos casos, no ser puesto en libertad antes de que se completen los procedimientos de su caso, e incluso, podría ser deportada en cualquier momento.*

*Una persona indocumentada que utiliza una fianza y su afianzador o afianzadora, pueden ser hechos responsables de cubrir la fianza cuando la persona indocumentada no se presente ante la corte debido a que haya sido deportada.*

*Finalmente, se debe aclarar que cualquier persona que ayuda o incentiva a que una persona indocumentada ingrese o reingrese de manera ilegal a los Estados Unidos, puede ser perseguida criminalmente. De la misma manera, también se puede perseguir criminalmente a cualquier persona que incentiva o ayuda a que una persona indocumentada, con conocimiento o de manera intencional, no se presente a corte de acuerdo a lo prometido en su fianza.*

This notice must be signed by the recipient and by the bondsman or his agent, who must note the date and time when the notice is provided. A copy of the notice with the required signatures and documentation as to time the notice is provided must be kept in the bondsman's file. The notice should be provided at the same time a receipt is given for any money or property received. Only one notice per bond is required. However, if arrangements for multiple bonds on the same person are being made simultaneously, there need be only one alien notice provided per arrested person.

# Potter County

## Rule 6.1 Writing Bonds.

Bonds shall be made under the following regulations:

- a. Within three (3) days of the principal's release on the bond, a contract shall be executed between the surety and the principal and a copy given to the principal immediately after signing.
- b. The contract shall set forth all the following information:
  1. The amount of the bond fee. If the contract is for more than one bond, then the fee for each bond shall be set out separately together with a total fee.
  2. The amount of any late fees or penalties and the conditions under which they may be imposed.
  3. Any finance charges.
  4. Any payment schedule, which shall include any down payment collected, how often a payment is due, how much the payment is, what date the first payment is due and when the subsequent payments are due.
  5. The amount and type of property taken for payment of the bail bond fee.
  6. The amount and type of property held by the bail bond surety for assurance of the principal's appearance in court and the conditions under which the property will be returned.
- c. No security shall be held for the payment of a bail bond fee and assurance of the principal's appearance in court that is in excess of the particular risk involved.

# Potter County (cont'd.)

## Rule 6.8 Change of Ownership.

- a. A copy of the proposed contract for sale of a license holder's business shall be provided to the board prior to any change of ownership.
- b. At the time the proposed contract for sale is provided, a license holder who is selling a business shall provide to the board an address for service or a sworn statement designating an agent and address for service.

## Rule 7.2 Receipt for collateral.

A license holder shall have a receipt signed by the surety and the principal or principal's agent, stating the following;

- a. The name of the person for whom the bond is posted;
- b. The county and case number(s) the collateral covers;
- c. Whether the collateral is being held for appearance and/or payment of fee;
- d. When the collateral will be returned;
- e. A list (description) of the collateral; and
- f. How request may be made for return of the collateral.

Finally, what are the possible consequences of not keeping the required records?

Possible prosecution for the Class B misdemeanor offenses defined in Occupations Code, Sec. 1704.305 concerning receipts and inspections of receipts and in Sec. 1704.306 concerning falsification of records.

Possible suspension or revocation of  
the license for violations of any part of  
Chapter 1704 of the Occupations  
Code or any local rule

**The End**