

# STATE OF CONNECTICUT

## INSURANCE DEPARTMENT

**Bulletin IC-24**

**June 29, 2009**

**To: ALL SURETY BAIL BOND AGENTS LICENSED IN THE STATE OF CONNECTICUT**

**Re: IMPROPER BUSINESS PRACTICES**

It has come to the attention of the Insurance Department (“Department”) that some surety bail bond agents and agencies may be conducting business in an improper or illegal manner, sometimes in patent disregard of applicable insurance laws.

Specifically, the Department believes that some surety bail bond agents may be (1) conducting business and writing bail bonds for or on behalf of insurance companies that have not appointed them to act on their behalf; (2) writing bonds for a premium lower than the premium filed with the Department; (3) engaging in unprofessional and disruptive behavior and failing to observe acceptable standards of professional conduct; (4) failing to return collateral to clients or cosigners promptly upon the disposition of cases in which such bonds have been issued; (5) failing to provide the Department with timely notice of address changes; and (6) failing to keep proper records relating to their business activities.

The purpose of this Bulletin is to provide notice to all surety bail bond agents about the Department’s interpretation of pertinent laws relating to these issues.

### **APPOINTMENTS**

Pursuant to section 38a-660(f) of the Connecticut General Statutes, every bail bond licensee is required to “file with the commissioner a notice of appointment executed by an insurer or its authorized representative authorizing such [licensee] to execute undertakings of bail and to solicit and negotiate such undertakings on its behalf”. In addition, in accordance with section 38a-660(a)(3) of the Connecticut General Statutes, a surety bail bond agent is defined as “any person who has been approved by the commissioner and appointed by an insurer by power of attorney to execute or countersign bail bonds for the insurer . . . .” (Emphasis supplied.) It must be noted that the term “person”, as defined in section 38a-1 of the Connecticut General Statutes, encompasses individuals and other legal entities, such as agencies, thereby imposing the obligation to hold an appointment on both.

The writing or countersigning of bail bonds by surety bail bond agents who have not obtained an appointment with the specific insurer underwriting the bond shall subject any licensee to applicable fines and penalties authorized by the Connecticut insurance laws. The licensees facing possible administrative action include the individual agent writing the bond, the agency associated with such agent and any insurer that allows or permits an agent to act on its behalf without the proper appointment. Licensees violating the provisions requiring them to hold a valid appointment are subject to a maximum penalty of \$15,000.00, in accordance with the provisions of Section 38a-2 of the Connecticut General Statutes.

### **BAIL BOND PREMIUMS**

In accordance with statutory provisions set out in Chapter 701 of the Connecticut General Statutes, commercial insurers underwriting criminal bail bonds in the State of Connecticut are required to file premium rates for all such bonds with the Department and are required to use only the rates so filed. Currently, in accordance with rates filed by all bail bond insurers, the premium for bail bonds is \$50.00 for bond amounts up to \$500.00; 10% of the bond's face value for bond amounts from \$500.00 to \$5,000.00; and 7% of the bond's face value for bond amounts in excess of \$5,000.00. "Premium" means all sums charged, received or deposited as consideration for the issuance or continuation of a bond, but does not include any collateral security required for the placement of a risk. Surety bail bond agents must charge only premiums that conform fully to the filed rates.

Acceptance by any surety bail bond agent of a premium lower than that filed with the Department is considered an unlawful rebate in violation of section 38a-825 of the Connecticut General Statutes. The Department considers the acceptance of a reduced commission or the offer of any other discount in the amount of premium to be charged to be in violation of the law. As such, such conduct will subject the violators to the penalties contemplated by the Connecticut Unfair Insurance Practices Act, including license revocation.

While the Department discourages the use of premium financing arrangements, they are not prohibited by law and are, therefore, permitted. Surety bail bond agents are not precluded from extending credit and collecting the premium due on a bail bond in installments. When a bail bond is placed under a premium finance arrangement, however, the surety bail bond agent is required to: (1) obtain from the principal or cosigner a bona fide promissory note incorporating all the terms of the agreement; (2) maintain all the necessary documents evidencing the transaction and make such records available to the Department upon request; and (3) undertake all the necessary steps to collect all of the balance due under the arrangement. Should the principal or any indemnitor fail to make the requirement payments, such agent is required to make diligent efforts to collect any and all installments due. Failure to collect any payment due on premium financing arrangements or to take appropriate action upon a failure to pay constitute an illegal rebate in violation of Section 38a-825 of the Connecticut General

Statutes thereby subjecting the agent and agency to administrative penalties, including license revocation.

### **UNPROFESSIONAL BEHAVIOR**

The Department has received a number of complaints about altercations among surety bail bond agents while conducting their business. On occasion, such altercations, usually over prospective clients, have resulted in physical confrontations. The Department considers this behavior to be unprofessional and disruptive of the normal operations of the facility in which it occurs. As such, it will not be tolerated. Under section 38a-774 of the Connecticut General Statutes, the commissioner may impose fines, and/or suspend or revoke the license of any licensee for cause shown. Cause entails any reasonable ground for administrative action, including a licensee's failure to observe acceptable standards of professional behavior. Surety bail bond agents are therefore notified that engaging in this kind of unprofessional behavior will result in administrative action by the Department in accordance with the referenced statutory provision.

### **COLLATERAL**

Surety bail bond agents who accept collateral to secure the obligation of the principal are reminded that collateral security or other indemnity, unless forfeited, belongs to the principal or person providing such collateral, is received on behalf of the insurer in a fiduciary capacity and must be held as such. Collateral security cannot be used by the surety bail bond agent for personal benefit and is required to be returned in the same condition as it was received upon termination of the bail bond for which it was received.

Under section 54-66a of the Connecticut General Statutes, bail bonds posted in criminal proceedings terminate automatically and are released whenever a defendant: "(1) Is granted accelerated rehabilitation . . . (2) is granted admission to the pretrial alcohol education system . . . (3) is granted admission to the pretrial family violence education program . . . (4) is granted admission to the community service labor program . . . (5) is granted admission to the pretrial drug education program . . . (6) has the complaint or information filed against such defendant dismissed; (7) is acquitted; (8) is sentenced by the court; (9) is granted admission to the pretrial school violence prevention program . . . or (10) is charged with a violation of [provisions relating to the sale, delivery or transfer of pistols and revolvers] and prosecution has been suspended. . . ." When a bond is terminated in accordance with section 54-66a, a surety bail bond agent must return the collateral security or other indemnity to the person that provided such collateral or other indemnity within a reasonable time after the case's disposition. If a defendant released on bail fails to appear and the bond is forfeited as a result, the surety bail bond agent or insurer must return promptly any amount of collateral in excess of the face value of the bond, less expenses incurred because of the defendant's failure to appear.

Failure to handle collateral security in accordance with the guidance provided in this Bulletin will expose surety bail bond agents to administrative action and penalties in accordance with section 38a-774 of the Connecticut General Statutes.

### **NOTIFICATION OF ADDRESS CHANGES**

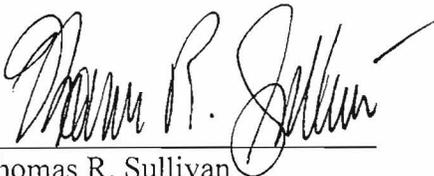
Section 38a-771 of the Connecticut General Statutes imposes upon all insurance licensees the obligation to notify the Insurance Commissioner, in writing, within thirty days after any change in business or resident address. On many occasions, mail sent by the Department to surety bail bond agents at their address of record is returned by the post office marked “Addressee Unknown” or “Unable to Forward” because the affected licensees have moved and failed to notify the Department of their change of address.

If it is determined, after adequate investigation, that a surety bail bond agent has failed to provide the required notice, the Department will undertake appropriate administrative action to impose a penalty as authorized by section 38a-774 of the Connecticut General Statutes.

### **FAILURE TO KEEP PROPER BUSINESS RECORDS**

The Insurance Commissioner has the responsibility to protect the public interest in accordance with the duties imposed by the insurance laws and to faithfully execute all statutory and regulatory provisions relating to insurance. To enable the Commissioner to carry out these duties, the legislature has vested him with all powers that are reasonable and necessary to perform such functions. Pursuant to his authority, the Commissioner may order the production of business books, records, papers and documents, and to examine books and records of all licensees upon request. Implicit in the Commissioner’s power to order the production of a licensee’s business records is the licensee’s obligation to maintain them and provide them upon request.

Surety bail bond licensees are advised that they are required to maintain proper records relating to their business, including all records related to the receipt and disposition of collateral security and premium finance transactions, for a period of at least three years after the bond has been terminated. Such records must be made readily available to the Commissioner upon request. Failure of bail bond agents to maintain and make available proper records will be considered cause for administrative action in accordance with section 38a-774 of the Connecticut General Statutes.

  
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Thomas R. Sullivan  
Insurance Commissioner