

**NOTICE OF WORKSHOP
TO SOLICIT COMMENTS ON PROPOSED REGULATIONS
AND WORKSHOP AGENDA**

The State of Nevada, Department of Business and Industry, Division of Insurance (“Division”) is proposing the adoption, amendment or repeal of regulations pertaining to chapter(s) 697 of the Nevada Administrative Code (“NAC”). A workshop has been set for **1:30 p.m. on December 7, 2018**, at the following location:

**1st Floor Hearing Room
Nevada Division of Insurance
1818 E. College Parkway, Suite 103
Carson City, Nevada 89706**

Interested persons may also participate through a simultaneous videoconference conducted at:

**4th Floor Nevada Room
Nevada State Business Center
Nevada Division of Insurance
3300 W. Sahara Avenue, Suite 275
Las Vegas, Nevada 89102**

The purpose of the workshop is to solicit comments from interested persons on the following general topic(s) that may be addressed in the proposed regulation; and to assist in determining whether the proposed regulation is likely to impose a direct and significant burden upon a small business or directly restricts the formation, operation or expansion of a small business. Please submit any written comments no later than **November 30, 2018**.

LCB File No. R173-18. Business of Bail.

A REGULATION relating to bail; prohibiting certain acts by a person who does not hold the appropriate license; establishing certain requirements for the completion of a course of instruction in bail bonds by certain applicants for licensure; revising provisions governing partnerships of licensees who engage in business in the bail industry; revising provisions governing the duties of, and restrictions on, licensees; revising provisions governing sureties; requiring licensees to maintain certain records and forms; revising provisions governing the content, terms and modification of bail agreements; revising provisions governing collateral which secures an obligation; revising provisions which prohibit the early surrender of a defendant without good cause; and providing other matters properly relating thereto.

A copy of all materials relating to the proposal(s) may be obtained at the workshop or by visiting the Division’s Internet Web site at <http://doi.nv.gov/> or by contacting the Division, 1818 E. College Parkway, Suite 103, Carson City, Nevada 89706, (775) 687-0700. A reasonable fee for copying may be charged. Members of the public who would like additional information about a proposed regulation may contact Susan Bell, Legal Secretary, at (775) 687-0704, or via e-mail to suebell@doi.nv.gov.

Notice of the workshop was provided via electronic means to all persons on the agency's e-mail list for noticing of administrative regulations. This *Notice of Workshop to Solicit Comments on Proposed Regulations* was posted to the agency's Internet Web site at <http://doi.nv.gov/>, the Nevada Legislature's Internet Web site at <http://www.leg.state.nv.us>, and at the following locations:

Nevada Division of Insurance
1818 East College Parkway, Suite 103
Carson City, Nevada 89706

Legislative Building
401 South Carson Street
Carson City, Nevada 89701

Blasdel Building
209 East Musser Street
Carson City, Nevada 89701

Capitol Building Main Floor
101 North Carson Street
Carson City, Nevada 89701

Nevada State Library & Archives
100 North Stewart Street
Carson City, Nevada 89701

Churchill County Library
553 South Main Street
Fallon, Nevada 89406

Elko County Library
720 Court Street
Elko, Nevada 89801

Eureka Branch Library
P.O. Box 293
Eureka, Nevada 89316

Lander County Library
P.O. Box 141
Battle Mountain, Nevada 89820

Lincoln County Library
P.O. Box 330
Pioche, Nevada 89043-0330

Nevada Division of Insurance
3300 West Sahara Avenue, Suite 275
Las Vegas, Nevada 89102

Nevada State Business Center
3300 West Sahara Avenue
Las Vegas, Nevada 89102

Grant Sawyer Building
555 East Washington Avenue
Las Vegas, Nevada 89101

Nevada Department of Employment,
Training and Rehabilitation
2800 East Saint Louis Avenue
Las Vegas, NV 89104

Carson City Library
900 North Roop Street
Carson City, Nevada 89701

Douglas County Library
P.O. Box 337
Minden, Nevada 89423

Esmeralda County Library
P.O. Box 430
Goldfield, Nevada 89013

Humboldt County Library
85 East 5th Street
Winnemucca, Nevada 89445

Las Vegas-Clark County Library District
7060 West Windmill Lane
Las Vegas, NV 89113

Lyon County Library
20 Nevin Way
Yerington, Nevada 89447

Mineral County Public Library
P.O. Box 1390
Hawthorne, Nevada 89415

Pershing County Library
P.O. Box 781
Lovelock, Nevada 89419

Storey County Clerk
P.O. Drawer D
Virginia City, Nevada 89440

Tonopah Public Library
P.O. Box 449
Tonopah, Nevada 89049


Washoe County/Downtown Reno Library
P.O. Box 2151
Reno, Nevada 89505-2151

White Pine County Library
950 Campton Street
Ely, Nevada 89301

Members of the public who are disabled and require special accommodations or assistance at the workshop are requested to notify the Commissioner's secretary, in writing, no later than five (5) working days before the workshop: 1818 E. College Parkway, Suite 103, Carson City, Nevada 89706, or suebell@doi.nv.gov.

DATED this 14th day of November, 2018.

BARBARA D. RICHARDSON
Commissioner of Insurance

By: 
LAURIE SQUARTSOFF
Chief Deputy Commissioner of Insurance
With Delegation of Authority

WORKSHOP AGENDA

The State of Nevada, Department of Business and Industry, Division of Insurance

December 7, 2018 • 1:30 p.m.

Location of Workshop:
Nevada Division of Insurance
1818 E. College Pkwy., 1st Floor Hearing Room
Carson City, NV 89706
(Division Offices located in Suite 103)

Available via Videoconference at:
Nevada Division of Insurance
3300 W. Sahara Ave., 4th Floor Nevada Room
Las Vegas, NV 89102
(Division Offices located in Suite 275)

1. Open Workshop: R173-18.
2. Presentation and Discussion of Proposed Regulation. (For Possible Action)

LCB File No. R173-18. Business of Bail.

A REGULATION relating to bail; prohibiting certain acts by a person who does not hold the appropriate license; establishing certain requirements for the completion of a course of instruction in bail bonds by certain applicants for licensure; revising provisions governing partnerships of licensees who engage in business in the bail industry; revising provisions governing the duties of, and restrictions on, licensees; revising provisions governing sureties; requiring licensees to maintain certain records and forms; revising provisions governing the content, terms and modification of bail agreements; revising provisions governing collateral which secures an obligation; revising provisions which prohibit the early surrender of a defendant without good cause; and providing other matters properly relating thereto.

3. Public Comment.
4. Close Workshop: R173-18.
5. Adjourn.

Supporting public material for this workshop may be requested from Susan Bell, Legal Secretary, Nevada Division of Insurance, 1818 E. College Parkway, Carson City, Nevada 89706, (775) 687-0704, or suebell@doi.nv.gov.

Note: Any agenda item may be taken out of order; items may be combined for consideration by the public body; items may be pulled or removed from the agenda at any time; and, discussion relating to an item may be delayed or continued at any time. The Hearing Officer, within his/her discretion, may allow for public comment on individual agenda items. Public comment may be limited to three minutes per speaker.

Members of the public are encouraged to submit written comments for the record.

We are pleased to make reasonable accommodations for attendees with disabilities. Please notify the Commissioner's secretary, in writing, no later than five (5) working days before the workshop: 1818 E. College Parkway, Suite 103, Carson City, Nevada 89706, or suebell@doi.nv.gov.

NOTICES FOR THIS WORKSHOP HAVE BEEN POSTED IN ACCORDANCE WITH NRS 241 AT THE FOLLOWING LOCATIONS:

Nevada Division of Insurance, 1818 E. College Parkway, Suite 103, Carson City, Nevada 89706
Nevada Division of Insurance, 3300 W. Sahara Avenue, Suite 275, Las Vegas, Nevada 89102
Nevada State Business Center, 3300 W. Sahara Avenue, Las Vegas, Nevada 89102
Nevada State Legislative Building, 401 S. Carson Street, Carson City, Nevada 89701
Grant Sawyer State Office Building, 555 E. Washington Avenue, Las Vegas, Nevada 89101
Blasdel State Office Building, 209 E. Musser Street, Carson City, Nevada 89701
Nevada State Capitol, 101 N. Carson Street, Carson City, Nevada 89701
Nevada Dept. of Employment, Training and Rehabilitation, 2800 E. Saint Louis Avenue, Las Vegas, Nevada 89104
The State of Nevada Website (www.nv.gov)
The Nevada State Legislature Website (www.leg.state.nv.us)
The Nevada Division of Insurance Website (www.doi.nv.gov)



DEPARTMENT OF BUSINESS AND INDUSTRY
DIVISION OF INSURANCE
1818 East College Pkwy., Suite 103
Carson City, Nevada 89706
(775) 687-0700 • Fax (775) 687-0787
Website: doi.nv.gov
E-mail: insinfo@doi.nv.gov

TO: LAURIE SQUARTSOFF
Chief Deputy Commissioner of Insurance

FROM: BARBARA RICHARDSON
Commissioner of Insurance

DATE: November 7, 2018

SUBJECT: Delegation of Authority in the Commissioner's Absence

I hereby issue a Delegation of Authority for you to act on my behalf when I am absent from the state November 13, 2018 through November 20, 2018. You are empowered to exercise all authority necessary to handle matters coming before the Division of Insurance, unless otherwise delegated.

A handwritten signature in blue ink, appearing to read "Barbara Richardson", written over a horizontal line.

BARBARA RICHARDSON
Commissioner of Insurance

NRS 679B.110 Delegation of powers.

1. The Commissioner may delegate to his or her deputy, examiner or an employee of the Division the exercise or discharge in the Commissioner's name of any power, duty or function, whether ministerial, discretionary or of whatever character, vested in or imposed upon the Commissioner.

2. The official act of any such person acting in the Commissioner's name and by his or her authority shall be deemed an official act of the Commissioner.

(Added to NRS by 1971, 1563; A 1991, 1615; 1993, 1898)

**PROPOSED REGULATION OF
THE COMMISSIONER OF INSURANCE**

LCB File No. R173-18

October 5, 2018

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1-14, 16-21 and 23-34, NRS 679B.130; §15, NRS 679B.130, 697.130 and 697.360; §22, NRS 679B.130 and 679B.137.

A REGULATION relating to bail; prohibiting certain acts by a person who does not hold the appropriate license; establishing certain requirements for the completion of a course of instruction in bail bonds by certain applicants for licensure; revising provisions governing partnerships of licensees who engage in business in the bail industry; revising provisions governing the duties of, and restrictions on, licensees; revising provisions governing sureties; requiring licensees to maintain certain records and forms; revising provisions governing the content, terms and modification of bail agreements; revising provisions governing collateral which secures an obligation; revising provisions which prohibit the early surrender of a defendant without good cause; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law authorizes the Commissioner of Insurance to adopt regulations for the administration of the Nevada Insurance Code. (NRS 679B.130)

Section 2 of this regulation prohibits: (1) a person who is not licensed under chapter 697 of NRS from participating in certain activities which require such a license; and (2) the assignment of the duties of a licensee to a person who is not licensed under chapter 697 of NRS.

Existing law requires an applicant for licensure as a bail agent or bail solicitor to have successfully completed a 6-hour course of instruction in bail bonds. (NRS 697.150, 697.170)

Section 3 of this regulation requires the course of instruction in bail bonds to have been successfully completed within the 2 years immediately preceding the date of the application to which it relates.

Section 4 of this regulation: (1) establishes that a person who is licensed under chapter 697 of NRS is not acting for or on behalf of this State or any of its political subdivisions; and (2) prohibits a licensee from wearing any uniform or badge or displaying any insignia or logo which purports to identify the licensee as a peace officer or other member of a law enforcement agency or otherwise implies that the licensee represents a governmental agency.

Existing regulations prohibit any person other than a licensee from performing certain acts. (NAC 697.130) **Section 8** of this regulation revises provisions prohibiting certain acts from being performed by any person who is not licensed as a bail agent.

Sections 9-12 of this regulation revise provisions governing the formation, operation, termination and sharing of profits and liability of partnerships which engage in business in the bail industry and limit the formation of such partnerships to bail agents.

Sections 13-18 of this regulation revise provisions governing the duties of licensees, including, without limitation: (1) the requirement to annually report certain information relating to a licensee's employees to the Division of Insurance of the Department of Business and Industry; and (2) certain restrictions on advertising by licensees.

Sections 19-21 of this regulation revise provisions governing sureties, including the administrative action that may be taken by the Commissioner of Insurance against a surety or bail agent that fails to timely comply with a final judgment of default.

Sections 22-27 of this regulation revise provisions which govern certain records and forms which are required to be maintained by licensees.

Sections 28-30 of this regulation revise provisions which govern bail agreements, including, without limitation: (1) requiring collateral to be specifically itemized, described and authenticated; and (2) making unlawful certain acts relating to additions or amendments to the terms of a bail agreement.

Sections 31-33 of this regulation revise provisions relating to collateral which is posted to secure an obligation, including, without limitation, the duties of a bail agent who holds, or desires to transfer or dispose of, such collateral.

Existing regulations prohibit the early surrender of a defendant back into custody without good cause. (NAC 697.550) **Section 34** of this regulation: (1) revises the circumstances which constitute "good cause"; (2) revises the information and documentation which a bail agent must provide to the Commissioner following an early surrender; and (3) provides for the forfeiture of premiums by a bail agent who causes a defendant to be surrendered early without good cause.

Section 1. Chapter 697 of NAC is hereby amended by adding thereto the provisions set forth as sections 2, 3 and 4 of this regulation.

Sec. 2. 1. *A person shall not engage in activities that require a specific type of license under chapter 697 of NRS unless the person holds that type of license.*

2. *The duties of a licensee may not be assigned to a person who is not licensed under chapter 697 of NRS.*

3. A bail enforcement agent shall not permit a person who is not licensed under chapter 697 of NRS to participate in the location, apprehension or surrender of a defendant.

Sec. 3. *A course of instruction in bail bonds required by NRS 697.150 and 697.170 must have been successfully completed within the 2 years immediately preceding the date of an application for a license as a bail agent or a bail solicitor, as applicable.*

Sec. 4. *A licensee:*

1. Is not acting for or on behalf of this State or any of its political subdivisions.

2. May not at any time wear any uniform or badge or display any insignia or logo which:

(a) Purports to identify the licensee as a peace officer or other member of a law enforcement agency; or

(b) Otherwise implies that the licensee represents a governmental agency.

Sec. 5. NAC 697.110 is hereby amended to read as follows:

697.110 The purpose of this chapter is to provide a comprehensive regulation of practices ~~common among bail bondsmen and provide guidelines for the enforcement of current statutes regulating bail bondsmen, bail solicitors and bail surety companies.~~ *in the bail industry.*

Sec. 6. NAC 697.120 is hereby amended to read as follows:

697.120 1. As used in this chapter, unless the context otherwise requires, the words and terms defined in NRS 697.030 to 697.070, inclusive, have the meanings ascribed to them in those sections.

2. “Bail agreement” means a contract for the undertaking of bail.

3. “Collateral” means property pledged as security by a defendant or indemnitor in a bail transaction.

4. “Commissioner” means the Commissioner of Insurance.

~~3.~~ 5. *“Defendant” means a person who was arrested and in custody and who may be released subject to certain terms imposed by a court through bail posted with the court.*

6. *“Final judgment of default” means a judgment entered by a court against a bond as provided in NRS 178.514.*

7. *“Indemnitor” means a person who financially guarantees to a bail agent or surety a defendant’s compliance with the terms of release imposed by a court and appearance in court by paying for the amount of bail if the court orders the bail bond forfeited.*

8. “Licensee” means a ~~natural~~ person licensed under chapter 697 of NRS.

9. *“Surety” means an insurance company that is authorized to write surety in this State.*

Sec. 7. NAC 697.125 is hereby amended to read as follows:

697.125 An applicant for a license as a bail ~~bondsman,~~ *agent, bail enforcement agent or bail solicitor* ~~for property bondsman~~ must achieve a *passing* score of at least 67 percent to pass the licensing examination.

Sec. 8. NAC 697.130 is hereby amended to read as follows:

697.130 No person other than a ~~licensee~~ *licensed bail agent* may:

1. Complete an application for a bail bond . ~~other than filling in the initial statistical information.~~
2. Execute the ~~surety contract,~~ *bail agreement*, other than clerical preparation of a ~~surety contract under the direct and immediate supervision of the licensee.~~ *bail agreement.*
3. Execute a collateral receipt . ~~other than clerical preparation of the receipt under the direct and immediate supervision of the licensee.~~
4. Post a *commercial bail* bond with a court or with a jail in which a defendant is confined or have any communication with defendant while he or she is confined, except to obtain

statistical information sufficient to refer the matter to the ~~{licensee. Any natural person may post a bond on behalf of a defendant if the person is not regularly engaged in the business of providing bail bonds.}~~ *bail agent*.

5. Appear on behalf of the ~~{licensee}~~ *bail agent* at a court proceeding for the purpose of obtaining continuation, exoneration or reduction of a posted bond, or obtaining other court action on it.

6. ~~{Solicit bail bond business on}~~ *On* behalf of a ~~{licensee}~~.

~~7. Perform any other function of a licensee.}~~ *surety:*

(a) Enter into a bail agreement with a defendant or indemnitor.

(b) Cause a defendant to be apprehended or surrendered by a bail enforcement agent.

Sec. 9. NAC 697.210 is hereby amended to read as follows:

697.210 1. Any ~~{licensee}~~ *bail agent* who desires to conduct business with one or more other ~~{licensees}~~ *bail agents* as a partnership must file *with the Division* a written statement setting forth:

(a) The nature of all business to be conducted by the partnership;

(b) The location of the principal place of the bail business of the partnership and of all other places for the conducting of partnership business; and

(c) The portion of ownership of each member of the partnership.

2. The written statement must be filed at least 10 days before the partnership transacts any business, and must be executed and verified by each partner.

Sec. 10. NAC 697.220 is hereby amended to read as follows:

697.220 Upon any change in the membership of a partnership, whether through death, dissolution, addition, deletion, *or expiration or* revocation of the license of any partner or

otherwise, the *partnership is presumed to terminate as of the date of the change in membership. If the* survivors or *proposed* successors to the partnership business ~~[-, if they]~~ wish to continue to act as a partnership, *they* must *be properly licensed and* promptly file a new *written* statement pursuant to NAC 697.210. ~~[[If the change in membership arises through the death of a partner, the Commissioner may allow the partnership to continue to transact business as a partnership pursuant to NRS 683A.300.]]~~

Sec. 11. NAC 697.230 is hereby amended to read as follows:

697.230 1. If the license of any partner is suspended, that partner may not engage ~~[[directly]]~~ in ~~[[the]]~~ *a bail* transaction ~~[[of bail,]]~~ nor may he or she directly receive any commission on, or profit derived from, any transactions entered into by other persons during the period of suspension.

2. This section applies to profits or commissions earned during the period of suspension, even if the profits, commissions or other money are not actually received until after the end of the suspension period.

Sec. 12. NAC 697.240 is hereby amended to read as follows:

697.240 The license of each member of a partnership is subject to suspension or revocation for the failure of the partnership or of any member of the partnership to comply with all laws and regulations governing the conduct of the bail business or acts incidental thereto, if the failure *to comply* occurred with the *member's* knowledge, consent, ratification, ~~[[or]]~~ collusion ~~[[of the member.]]~~ *or deliberate failure to make a reasonable inquiry.*

Sec. 13. NAC 697.250 is hereby amended to read as follows:

697.250 1. In addition to fulfilling the requirements of chapter 697 of NRS, a *bail* solicitor must:

- (a) Pass a special *bail* solicitor's examination provided by the Commissioner; and
- (b) Meet other qualifications established by the Commissioner.

2. ~~A person who is licensed as a solicitor may perform the duties of bail agent, except that a solicitor may not execute a bond.~~ *A bail solicitor who is employed by a licensed bail agent may not solicit business on behalf of the bail agent unless and until the bail agent files with the Commissioner an appointment and statement as described in subsection 2 of NRS 697.185.*

3. All persons licensed as solicitors before November 22, 1978, are deemed to have complied with the terms of this chapter.

Sec. 14. NAC 697.310 is hereby amended to read as follows:

697.310 1. No licensee, or employee *or agent* thereof, may receive, accept or otherwise collect or transmit money or other consideration for attorney's fees, services or costs, or for any other purpose, to an attorney on behalf of any defendant.

2. ~~A licensee who is lawfully holding money or other collateral may, upon release or assignment of the collateral, honor the release or assignment if the licensee took no part in the negotiation of the release or assignment.~~ *A licensee shall not require or prohibit the use of a particular attorney by a defendant to represent the defendant in a criminal proceeding.*

3. Any release or assignment of collateral held by a ~~licensee,~~ *bail agent*, including a release or assignment to pay a fine or for any reason other than to satisfy or secure the bond for which the collateral was originally received, must be executed ~~by the defendant~~ in writing ~~+~~ *by the person who pledged the collateral upon the court's discharge of the obligation, the satisfaction of which was secured by the collateral.*

Sec. 15. NAC 697.330 is hereby amended to read as follows:

697.330 Each ~~{bail bond agent}~~ *licensee* shall furnish ~~{the following}~~ *annually* information concerning every person ~~{in his or her employ.}~~ *employed or under contract with the licensee*, including *, without limitation, persons who are not licensed under chapter 697 of NRS*, independent contractors, clerical workers, skip tracers and ~~{special}~~ *bail enforcement* agents ~~{for the purpose of surrender, as long as the persons are employed for an aggregate period of 30 days or more during any 1-year period:~~

~~—1.— Name;~~

~~—2.— Address, length of time at that address, and previous addresses for 2 years preceding the date of application;~~

~~—3.— Business and residence telephone numbers;~~

~~—4.— Age, date of birth, place of birth and social security number; and~~

~~—5.— Current and previous occupations for 2 years preceding the date of the application.~~

~~↪ The requirements of this section may be met by completing Form ID6-BE, Bail Employee Notification Form, which will be} , on a form provided by the Commissioner {The provisions of this section apply only to those persons employed within the State of Nevada.} *on the Internet website of the Division at <http://www.doi.nv.gov>.*~~

Sec. 16. NAC 697.340 is hereby amended to read as follows:

697.340 An employing bail agent shall exercise supervision over his or her employees and make a diligent effort to keep informed of their acts as his or her employees. Failure of the employer to exercise sufficient supervision to prevent violations of the ~~{insurance law}~~ *Code* or this chapter by the employee while acting within the scope of his or her employment may result in disciplinary action against the ~~{employer.}~~ *employing bail agent or bail agency.*

Sec. 17. NAC 697.350 is hereby amended to read as follows:

697.350 All advertising ~~for~~, *including, without limitation*, telephone listings in ~~the classified sections of~~ telephone directories, *Internet websites and any other means which are used to solicit business*, must clearly indicate the true name of each licensee who owns the business, along with ~~its fictitious name.~~ *the license number of each person who is advertised or listed.*

Sec. 18. NAC 697.355 is hereby amended to read as follows:

697.355 1. Except as otherwise provided in subsection 2, a person shall not advertise or solicit a bail transaction, directly or indirectly, including, without limitation, by the use of any type of printed ~~matter,~~ *or electronic media*, a bail solicitor or an employee of a court, prison, county or city jail or detention facility:

- (a) Within the prison, county or city jail or detention facility;
- (b) Within a courthouse or courtroom; or
- (c) On the property upon which the prison, county or city jail, detention facility or courthouse is located.

2. The provisions of subsection 1 do not prohibit:

(a) An employee of the court, prison, county or city jail or detention facility from distributing or posting a list prepared by:

- (1) The Division of Insurance of the Department of Business and Industry; or
- (2) The court, prison, county or city jail or detention facility,

↳ that sets forth the names and telephone numbers of bail agents who are licensed pursuant to chapter 697 of NRS.

(b) A person from advertising in ~~for distributing a telephone directory prepared for and distributed to the general public~~ *a manner* that sets forth the names and telephone numbers of

bail agents who are licensed pursuant to chapter 697 of NRS ~~+~~ *as described and authorized in NAC 697.350.*

3. A person shall not make, publish, disseminate, circulate or place before the public, or cause, directly or indirectly, to be made, published, disseminated, circulated or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio station, television station, electronic media, or in any other way, any advertisement, announcement or statement containing any assertion, representation or statement with respect to the transaction of bail or with respect to any person in the conduct of his or her bail surety business, which is untrue, deceptive or misleading.

Sec. 19. NAC 697.360 is hereby amended to read as follows:

697.360 Deposits, reserves or build-up accounts posted by a bail ~~bondsman or general~~ agent, either with a surety ~~company~~ or a general agent representing a surety ~~company,~~ must be maintained by the surety ~~company~~ or the general agent as trustee for the *bail* agent and deposited in a bank, savings and loan association, thrift company or similar institution in Nevada.

Sec. 20. NAC 697.370 is hereby amended to read as follows:

697.370 Each surety ~~company~~ engaged in the writing of bail bonds shall provide to the clerk of each court in which the surety ~~company~~ posts bonds, self-addressed envelopes for the use of the court in notifying the surety ~~company~~ that final judgment of default has been entered against a bond of the ~~company,~~ *surety.*

Sec. 21. NAC 697.380 is hereby amended to read as follows:

697.380 ~~1.—For purposes of NAC 697.370 and this section, “final judgment of default” means a judgment entered against a bond after the 180-day notice of forfeiture period as provided in NRS 178.508.~~

~~—2.1~~ If the final judgment of default has not been satisfied within 30 days after the clerk serves it ~~{by mail}~~ to the *bail agent or* surety, ~~{company,}~~ the Commissioner may ~~{require an officer of the company to appear before him or her.}~~ *initiate proceedings against the bail agent or surety, as applicable, for the failure to timely comply with the final judgment of default.*

Sec. 22. NAC 697.410 is hereby amended to read as follows:

697.410 1. Each ~~{bail bondsman licensed under the provisions of chapter 697 of NRS}~~ *licensee* shall maintain complete, *legible* and accurate records of *bail transactions*.

2. *For each bail transaction, a bail agent must maintain, without limitation,* the following information ~~{for each bond.}~~ *and documents:*

(a) The date on which the bond was executed.

(b) The bond number.

(c) The names of ~~{all principals on whose behalf the bond was issued.}~~ *each defendant and indemnitor involved in the bail transaction.*

(d) The amount of the bond.

(e) The court in which the bond was posted.

~~{2.—The requirements of this section may be met by completing a form similar to the Division of Insurance Form M-8A.}~~

(f) Any expenses or fees charged, with receipts or verifiable proof of the expense incurred.

(g) Receipts for all of the collateral which corresponds to the bail transaction.

(h) Any notice of forfeiture and the effective date of forfeiture, if applicable.

(i) Any notice of exoneration and the date thereof, if applicable.

(j) Final judgment of default, if applicable.

(k) Any forms signed by the defendant or indemnitor.

3. The bail agent shall maintain a copy of each document filed with the court, including, without limitation, a copy of the bond and face sheet.

Sec. 23. NAC 697.420 is hereby amended to read as follows:

697.420 1. Information required by NAC 697.410 must be compiled by the ~~licensee~~ *bail agent* and filed at the home office of the surety ~~company~~ unless the ~~company~~ *surety* designates another location in writing to the Commissioner and that location is approved by the Commissioner.

2. The information required by this section must be updated on a quarterly basis and filed at the designated place of filing not later than 21 days after the close of each calendar quarter.

Sec. 24. NAC 697.430 is hereby amended to read as follows:

697.430 All forms forwarded to the surety ~~company~~ pursuant to this chapter must be maintained for 3 years after the date of receipt by the surety . ~~company.~~

Sec. 25. NAC 697.440 is hereby amended to read as follows:

697.440 1. Each licensee shall file ~~with~~ *for approval by* the Commissioner ~~a sample copy of~~ each form *intended to be* used in his or her business.

2. A licensee may only use a form in a bail transaction if the Commissioner has expressly approved the form.

Sec. 26. NAC 697.450 is hereby amended to read as follows:

697.450 Every ~~bondsman's~~ *bail* agent or employee of ~~an~~ *a bail* agent shall promptly provide ~~upon request~~ to ~~any person who posts or secures bail or otherwise becomes~~

~~obligated,} a defendant or indemnitor complete~~ copies of any form signed by ~~{that person.} the~~ *defendant or indemnitor, as applicable.*

Sec. 27. NAC 697.460 is hereby amended to read as follows:

697.460 1. *Each receipt for collateral must:*

(a) Be issued at the time the collateral is offered; and

(b) Provide a detailed description of the property which forms the collateral.

2. Receipts for collateral must be issued and maintained in numerical order.

3. A master collateral receipt book must remain permanently at the principal place of business of the ~~{licensee.~~

~~—2.} bail agent.~~

4. A ~~{licensee} bail agent~~ may keep a duplicate book of collateral receipts on his or her person away from the principal place of business. If a duplicate book is maintained, it must be clearly designated as such.

Sec. 28. NAC 697.470 is hereby amended to read as follows:

697.470 All *bail* agreements ~~{of persons to act as guarantor}~~ must be in writing or reduced to writing as soon as possible after consummation ~~{}~~ *in a form which was previously approved by the Commissioner pursuant to NAC 697.440.* If any person acts as ~~{a guarantor,} an~~ *indemnitor*, a copy of the agreement executed by the person must be delivered to him or her promptly upon his or her completion of the execution. ~~{No} Any collateral offered by a~~ *defendant or indemnitor and accepted by a bail agent must be specifically itemized, described and authenticated by signature of the person pledging the collateral at the time the bail agreement is executed.* A bail ~~{licensee} agent~~ may *not* enforce ~~{any such} a bail~~ agreement without disclosing to the ~~{guarantor} defendant or indemnitor~~ all collateral held by the ~~{licensee}~~

bail agent indemnifying the bond . ~~{to which the agreement relates, and}~~ *The bail agent must disclose to the indemnitor* the identity of ~~{all}~~ other ~~{guarantors thereof,}~~ *indemnitors*, if any ~~{,}~~, *to the same bond.*

Sec. 29. NAC 697.475 is hereby amended to read as follows:

697.475 It is unlawful for any licensee to:

1. Enter into any agreement of any kind which would ~~{directly}~~ :

(a) Be in violation of, or in conflict with, any of the provisions of the Code or any other applicable law; or

(b) Directly or indirectly result in a restraint of trade or an unfair method of competition . ~~{}~~
~~or}~~

2. Have any direct or indirect understanding with any law enforcement agency, judicial officer, employee of any court, newspaper employee, private investigator, messenger service or similar business, trusty in a jail or anyone incarcerated, under which the person will notify or inform the licensee, directly or indirectly, of a criminal complaint, an arrest, that an arrest is pending or contemplated, or any other matters relating thereto.

3. Add or amend terms of a bail agreement or form in a bail transaction unless all parties to the bail agreement or form, as applicable, agree in writing to the addition or amendment.

4. Threaten to surrender a defendant to influence a person's decision whether to agree to add or amend the terms of a bail agreement or form.

Sec. 30. NAC 697.480 is hereby amended to read as follows:

697.480 No bail ~~{licensee}~~ *agent* may enter into an agreement or arrangement with any person, guaranteeing or assuring in advance of the commission of any offense that bail will be furnished to the person if he or she is arrested.

Sec. 31. NAC 697.510 is hereby amended to read as follows:

697.510 Subject to any contract to the contrary with a surety, a ~~licensee~~ *bail agent* may maintain cash collateral in an interest-bearing account with a bank, savings and loan association, thrift company or similar institution in this state, and may retain the interest earned on that money if:

1. All such deposits are maintained separate from any other funds, except cash collateral funds;
2. All such deposits are returned to the person who posted the money with the ~~licensee~~ *bail agent* promptly upon the termination of the liability for which the money was posted as security; and
3. Any penalty or loss of interest for early withdrawal of collateral deposits is the responsibility of the ~~licensee~~ *bail agent*.

Sec. 32. NAC 697.520 is hereby amended to read as follows:

- 697.520 1. ~~Upon return of collateral~~ *Collateral must be returned* to the person who posted it ~~if any amount has been deducted by the licensee as expense, the licensee shall include with the money an itemized statement of all expenses, and maintain a copy of the statement in his or her file. The statement must include notary fees, guard fees and any other expenses deducted from the collateral.~~ *as soon as the obligation secured by the collateral is discharged.*
2. If the bond secured by the collateral is forfeited , *the court enters a final judgment of default against the bond* and the ~~licensee retains~~ *bail agent seeks to retain* possession of the collateral in payment of the forfeiture or otherwise ~~disposes~~ *dispose* of the collateral, the ~~licensee~~ *bail agent* shall ~~advise~~ :

(a) Advise the surety ~~{company}~~ within 7 working days of ~~{the terms of disposition}~~ *his or her intent to transfer or dispose* of the collateral ~~†~~.

~~—3.— Compliance with subsection 1 or 2 of this section may be accomplished by completion of a form similar to Form M-8B or M-8B-1, and including the items shown on those forms.† ; and~~

(b) Comply with all applicable lawful procedures to transfer or dispose of the collateral.

Sec. 33. NAC 697.530 is hereby amended to read as follows:

697.530 1. *A bail agent shall comply with all laws relating to the transfer and holding of real property in a security transaction.*

2. If a ~~{licensee}~~ *bail agent* receives any document which conveys title to real property as collateral in a bail transaction, whether on his or her own behalf or on behalf of a surety , ~~{company}~~ the document must state on its face that it is executed as part of a security transaction.

~~{2.}~~ 3. If the document is recorded, a reconveyance of the property executed in such a manner that it may be recorded must be delivered by the ~~{licensee}~~ *bail agent* or surety to the person executing the original conveyance, or to his or her heirs, legal representative or successor in interest, promptly upon satisfaction of the obligation secured.

~~{3.}~~ 4. The ~~{licensee}~~ *bail agent* or surety ~~{company}~~ shall determine promptly whether the obligation has been discharged upon request for return of the collateral by the person entitled to it.

Sec. 34. NAC 697.550 is hereby amended to read as follows:

697.550 1. No *surety or* bail ~~{bondsman}~~ *agent* may *cause the* surrender *of* a defendant back into custody without good cause before the time specified in the bond for the appearance of the defendant.

2. “Good cause” includes : ~~but is not limited to:~~

(a) Information from a *credible* source ~~credible under the circumstances~~ that the defendant intends to fail to appear before the appropriate court at the date and time prescribed.

(b) Materially false information ~~on the application of~~ *provided in writing by* a defendant ~~with the intention to mislead the bail agent or surety and which materially affects the assessment for underwriting the bond.~~

(c) An increase by the court in the amount of bail beyond ~~sound~~ *reasonable* underwriting criteria employed by the ~~licensee~~ *bail agent*.

(d) ~~A material change in the collateral posted by the defendant or one acting on his or her behalf.~~

~~(e)~~ A change of address or telephone number by the defendant made without giving reasonable notice to the ~~licensee~~.

~~(f)~~ *bail agent or an employee of the bail agency.*

(e) Commission of another crime, other than a minor *infraction, such as a* traffic violation, by the defendant while on bail ~~with~~.

~~(g)~~ *if the crime reasonably changes the assessment for underwriting the bond.*

(f) Failure by the defendant to appear in court at the appointed time ~~with~~.

~~(h)~~ ~~A finding of guilt against the defendant by a~~ *if the defendant’s failure to appear was unjustifiable or unreasonable.*

(g) *A violation of a term or condition set by the court .* ~~of competent jurisdiction.~~

3. If a *surety or* bail ~~bond~~ agent ~~surrenders~~ *causes the surrender of* a defendant before the time specified in the bond, the *surety or bail* agent, *as applicable*, shall, within 10 days after the surrender, ~~complete and mail to~~ *file with* the Commissioner a *verified* statement concerning

the surrender, including the information required on ~~Form M-8C,~~ *the M8C Early Surrender of Defendant form*, available from the ~~Commissioner of Insurance,~~ *Internet website of the Division at <http://www.doi.nv.gov>*. *The statement must be accompanied by a copy of the authorization of the surety or bail agent, as applicable, to surrender the defendant before the time specified in the bond, as well as any documents related to the surrender that were submitted to the court or jail. If the surety or bail agent, as applicable, fails to submit the statement and other information and documents required by this section within 10 days after the surrender, the Commissioner will deem the surrender to be without good cause and the bail agent will be required to refund the premium for the bond.*

4. If a bail agent causes a defendant to be surrendered pursuant to this section and subsequently posts a bond on the defendant for the same case, the bail agent is prohibited from collecting the premium for that subsequent bond.

**STATE OF NEVADA
DEPARTMENT OF BUSINESS & INDUSTRY
DIVISION OF INSURANCE**

**Determination of Necessity of Small Business Impact Statement
NRS 233B.0608(1)**

BUSINESS OF BAIL

EFFECTIVE DATE OF REGULATION:
Upon filing with the Nevada Secretary of State

1. BACKGROUND.

The regulation is necessary to remove provisions that no longer apply to the business of bail. Most of the bail regulations are from 1978, so the regulations do not correspond to existing law. The purpose is to make the regulation of bail easier to understand for both bail licensees and consumers, to conform to the Nevada Revised Statutes, and to answer frequently asked questions.

2. DESCRIPTION OF SOLICITATION SHOWING A CONCERTED EFFORT. NRS 233B.0608(1).

Due to the number of complaints the Division has received about bail licensees in recent years, the Division has undergone significant review and analysis of bail laws, studied the business of bail, and talked to bail associations, other states, and current and former bail licensees. In addition, the issues were thoroughly discussed with bail industry representatives and bail licensees in meetings held between Dec. 2016 and May 2017, and their concerns and feedback on the issues were taken into consideration.

No additional comments were solicited regarding the proposed regulations because small businesses are not involved in or affected by bail transactions. While bail agencies are generally small businesses, these regulations are intended to eliminate outdated regulations and to make roles and obligations consistent with Nevada's bail statutes, and are not intended to impose duties or obligations beyond what is currently required. To the extent that bail agencies would be affected by the proposed regulations, the Division believes that the proposed regulations will make the laws regulating the business of bail easier to understand, which should have the effect of making the operation of a bail business easier and more efficient, resulting in cost savings. Bail agencies that currently comply with the law will experience no adverse impact.

3. DOES THE PROPOSED REGULATION IMPOSE A DIRECT AND SIGNIFICANT ECONOMIC BURDEN UPON A SMALL BUSINESS OR DIRECTLY RESTRICT THE FORMATION, OPERATION OR EXPANSION OF A SMALL BUSINESS? NRS 233B.0608(1).

NO

YES

4. HOW WAS THAT CONCLUSION REACHED? NRS 233B.0608(3).

Due to the number of complaints the Division has received involving bail transactions, the Division of Insurance legal section and other sections involved in bail, namely licensing, consumer compliance, enforcement, and examinations, have undergone significant review and analysis of bail laws, studied the business of bail, and talked to bail associations, other states, and current and former bail licensees. Small businesses in general are not involved in or affected by bail transactions unless the business is a bail agency—bail agencies tend to be small businesses. To the extent that bail agencies would be affected by the proposed regulations, the Division believes that the proposed regulations will make the laws regulating the business of bail easier to understand, which should have the effect of making the operation of a bail business easier and more efficient, resulting in cost savings.

I, BARBARA D. RICHARDSON, Commissioner of Insurance for the State of Nevada, hereby certify that, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that the information contained in this statement is accurate. (NRS 233B.0608(3))

6/26/18
(DATE)



BARBARA D. RICHARDSON
Commissioner of Insurance

Small Business Impact Statement
NRS 233B.0608(2)-(4) and 233B.0609

BUSINESS OF BAIL

1. SUMMARY OF COMMENTS RECEIVED FROM SMALL BUSINESSES. NRS 233B.0609(1)(a).

This proposed regulation was analyzed and thoroughly discussed with the Division of Insurance legal section and other sections involved in bail, namely licensing, consumer compliance, enforcement, and examinations for many months. In addition, these issues related to changes in bail were thoroughly discussed with bail industry representatives and bail licensees in meetings held between Dec. 2016 and May 2017, and their concerns and feedback on these issues were taken into consideration. Small businesses in general are not involved in or affected by bail transactions unless the business is a bail agency—bail agencies tend to be small businesses. Because the Division already thoroughly considered concerns and feedback raised by bail industry representatives, no additional comments were solicited.

Other interested parties may receive a copy of this summary by contacting Susan Bell, Legal Secretary, Nevada Division of Insurance, at (775) 687-0704 or suebell@doj.nv.gov.

2. HOW WAS THE ANALYSIS CONDUCTED? NRS 233B.0609(1)(b).

Due to the number of complaints the Division has received about bail licensees, the Division of Insurance legal section and other sections involved in bail, namely licensing, consumer compliance, enforcement, and examinations have undergone significant review and analysis of bail laws, studied the business of bail, and talked to bail associations, other states, and current and former bail licensees. In addition, these issues were thoroughly discussed with bail industry representatives in meetings held between Dec. 2016 and May 2017, and their concerns and feedback on these issues were taken into consideration. While bail agencies are generally small businesses, these regulations are strictly to eliminate outdated regulations and to make roles and obligations consistent with Nevada's bail statutes. These changes are not intended to impose duties or obligations beyond what is currently required. Bail agencies that currently comply with the law will experience no impact.

3. ESTIMATED ECONOMIC EFFECT ON SMALL BUSINESSES THE REGULATION IS TO REGULATE. NRS 233B.0609(1)(c).

To the extent that bail agencies would be affected by the proposed regulations, the Division believes that the proposed regulations will make the laws regulating the business of bail easier to understand, which should have the effect of making the operation of a bail business easier and more efficient, resulting in cost savings. No adverse effects are anticipated.

4. METHODS CONSIDERED TO REDUCE IMPACT ON SMALL BUSINESSES. NRS 233B.0609(1)(d).

No methods were considered to reduce the impact upon small businesses, as there is no direct or significant impact expected from the adoption of this proposed regulation. Small businesses in general are not involved in bail transactions unless the business is a bail agency. The Division has undergone considerable review and analysis of bail laws, studied the business of bail, and talked to bail associations, other states, and current and former bail licensees. The proposed regulation is not expected to negatively impact small businesses that currently comply with the law—the intent is to help bail agencies come into compliance with Nevada law by updating the regulations to comport with Nevada statutes. Again, the proposed regulations will make the laws regulating the business of bail easier to understand, which should have the effect of making the operation of a bail business easier and more efficient, resulting in cost savings.

5. ESTIMATED COST OF ENFORCEMENT. NRS 233B.0609(1)(e).

None anticipated.

6. FEE CHANGES. NRS 233B.0609(1)(f).

The proposed regulation will neither establish a new fee nor increase an existing fee.

7. DUPLICATIVE PROVISIONS. NRS 233B.0609(1)(g).

The proposed regulation does not duplicate any existing federal, state, or local standards.

8. REASONS FOR CONCLUSIONS. NRS 233B.0609(1)(h).

The Division has undergone considerable review and analysis of bail laws, studied the business of bail, and talked to bail associations, other states, and current and former bail licensees. The proposed regulation is neither expected nor intended to negatively impact small businesses that currently comply with the law—the intent is to help bail agencies come into compliance with Nevada law by updating the regulations to comport with Nevada statutes.

I, BARBARA D. RICHARDSON, Commissioner of Insurance for the State of Nevada, hereby certify that, to the best of my knowledge or belief, a concerted effort was made to determine the impact of the proposed regulation on small businesses and that this statement was prepared properly and the information contained herein is accurate. (NRS 233B.0609(2))

6/26/18
(DATE)


BARBARA D. RICHARDSON
Commissioner of Insurance