

## BAIL BONDSMEN

It has come to the attention of the Department of Business and Industry, Division of Insurance (Division) from examinations of bail agents and insurers that some provisions of chapter 697 of the NRS, the Bail Bondsman Law, need to be emphasized. While this bulletin highlights only selected laws and regulations, all individuals licensed pursuant to chapter 697 must be aware of and strictly comply with all relevant statutes and regulations. It is the obligation and the intent of the Division to fully enforce the laws governing bail agents and surety contracts. Licensure Requirements

No person shall receive, renew or hold a license as a bail agent unless he "is a bona fide resident of and resides within this state, and must have so resided for not less than one year immediately preceding the application for the license." The Division will require proof of such residency prior to the issuance of a bail agent license. NRS 697.150(1).

Each independent bail agent must have an active appointment with an authorized insurer to maintain his license. If a bail agent's appointments are terminated and he fails to replace any appointment within 60 days thereafter, his license shall expire and he shall promptly deliver his license to the Commissioner of Insurance (Commissioner). NRS 697.230(3). Registration with the Courts

No bail bondsman shall become a surety on an undertaking unless he has registered in the office of the sheriff and with the clerk of the district court in which the bondsman resides. He may also register in a like manner in another county. The registration shall include the filing of a certified copy of the bail agent's appointment by power of attorney from each insurer which he represents as agent. Registration shall be performed annually on July 1. The clerk of the district court and the sheriff shall not permit the registration of a bail bondsman unless such bondsman is duly licensed by the commissioner.

### NRS 697.270 Exclusive Acts

NAC 697.130 outlines seven activities that only licensed bail agents may perform. No person other than a licensee may:

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

5. Appear on behalf of the licensee 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 behalf of a licensee.

7. Perform any other function of a licensee. Prohibited Acts

No individual may act as a bail solicitor unless he or she is duly licensed by the Division. NRS 697.170 and NRS 697.180.

A bail agent is not permitted to extend "any valuable consideration or inducement whatever" as an incentive towards the procurement of insurance. NRS 697.360, (see NRS 686A.130). Therefore, a bail agent may not extend payment of any kind, including reduction of a fee, to any individual who provides any assistance in locating customers. A licensee may not charge any fee for his services in a bail transaction in addition to the premium or charge for the bail bond at the rates filed with the commissioner, except in accordance with the provisions of NRS 697.300.

#### Fiduciary Responsibilities

A bail bondsman may accept collateral security in connection with a bail transaction. Such collateral is received by the bail bondsman in his fiduciary capacity and must be kept in a collateral account, separate and apart from any other funds or assets. Accounts for cash collateral must be established and maintained in a commercial bank or other established financial institution in this state. NRS 697.360, (see NRS 683A.400).

#### Mandatory Information to be provided to the Division

Bail agents must provide specific information to the Division about each and every person the agent employs for an aggregate period of 30 days or more during any one year period. The 30 days need not be consecutive. Such persons include independent contractors, clerical workers, skip tracers and special agents for the purpose of surrender. NAC 697.330.

Unless there is good cause demonstrated, no bail bondsman may surrender a defendant back into custody prior to the expiration of the time specified in the bond for the appearance of the defendant. If a bail agent does surrender a defendant before the time specified on the bond, the agent shall, within 10 days after the surrender, submit to the Commissioner a statement concerning the surrender. The content of the statement shall include the information required on Form M-8C, available from the Division. NAC 697.550.

Each bail bondsman shall maintain complete and accurate records for each executed bond. This section can be complied with by completing Form M-8A, available from the Division. NAC 697.410. Advertising  
A bail agent may have only one fictitious name. NRS 697A.360(3), (see NRS 683A.240). Advertising in the classified section of telephone books must clearly indicate the true name of each licensee who owns the business, along with his fictitious name. NAC 697.350.

A bail bondsman, general agent or bail solicitor shall not solicit business in or about any place where prisoners are confined or in or about any court. NRS 697.340(1)(b).

#### Approved Lists of Licensed Bail Agents

In the past, the Division has provided lists of licensed bail agents to the jails located in Southern Nevada. Effective July 1, 1997, lists of licensed agents will be available statewide. To be included on future lists, bail agents must have: an active appointment, powers filed with the court and/or county clerk, and a fiduciary account. New lists will be provided to the jails on January 1 and July 1 of each year. In order to maintain his or her name on the lists provided to the jails, all agents must provide proof of filed powers and a fiduciary account to the Division not later than one month prior to the distribution of the lists.

Questions regarding this bulletin may be addressed to:

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