

PROCEDURES & RULES MANUAL
OF THE
HUDSPETH COUNTY BAIL BOND BOARD

April 10, 2018

I. PROCEDURES OF THE HUDSPETH COUNTY BAIL BOND BOARD

A. ADMINISTRATIVE & ENFORCEMENT AUTHORITY

Chapter 1704 of the Texas Occupation Code (the "Occupations Code") contains regulations for bail bond sureties (the "Bondsman or Bondsmen") in counties that have voted to create a Bail Bond Board. The Occupations Code governs the actions that the Hudspeth County Bail Bond Board (the "HCBBB") may take when regulating Bondsmen in Texas. The main sections of the Occupation Code that entrust authority to the HCBBB are:

Section 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 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 hearing 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."

Section 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 application."

The purpose of the Procedures & Rules Manual of the HCBBB is to facilitate the smooth and efficient operation of the HCBBB and the orderly regulation of the bail bonding business in Hudspeth County.

B. QUARTERLY MEETINGS

Section 1704.055 of the Occupations Code sets out the general requirements for HCBBB meetings. The Occupations Code requires that the HCBBB meet "(1) at least four times a year during the months of January, April, July and October; and (2) at other times at the call of the presiding officer."

The HCBBB, as a governmental body, must also hold its meetings in compliance with the Texas Open Meeting Act ("TOMA"), as amended. The provisions of TOMA are located in Chapter 551 of the Texas Government Code. Section 551.002 of TOMA, states that, "Every regular, special, or called meeting of a governmental body shall be open to the public, except as provided by this Chapter."

1. PUBLIC NOTICE

a. Meeting Date:

The regularly scheduled quarterly meetings of the HCBBB shall be held on a specific day and time as determined by the members, that may be held by a county bail bond board each quarter. The meetings will be posted seventy-two (72) hours prior to its occurrence as required by TOMA.

b. Notice Required for Meetings Generally:

Section 551.043 of TOMA requires that the notice of a meeting of a governmental body must be posted in a place readily accessible to the general public at all times for at least seventy-two (72) hours before the scheduled time of the meeting, except for emergency meetings.

c. Emergency Meetings:

Section 551.045 of TOMA provides an exception to the general rule of seventy-two (72) hours' notice, when providing notice of emergency meetings or emergency additions to the agenda. Section 551.045 provides that emergency meetings under TOMA have merely a two (2) hour notice posting requirement; however, an emergency or an urgent public necessity exists under TOMA only if a governmental body must take action because of: "(1) an imminent threat to public health and safety; or (2) a reasonably unforeseeable situation."

d. Quorum of Members:

Section 1704.056 of the Occupations Code dictates that "(a) Four members of a board constitute a quorum." and "(b) A board may take action only on a majority vote of the board members present."

e. Speaker Policy:

After the conclusion of the consideration of New Business and prior to Adjournment of the quarterly meeting, the HCBBB will make an invitation

for members of the audience to make brief comments. During the period allowed for brief comments, members of the HCBBB may only comment as allowed by Section 551.042 of TOMA.

(i.) At the beginning of each HCBBB Meeting, speaker registration cards will be made available to the members of the audience. No member of the audience will be allowed to make comments without stating the requested information from the speaker registration card into the record prior to speaking. Each individual appearing before the HCBBB shall be limited to a maximum of three minutes, unless granted an extension of time by the HCBBB. Time shall be maintained by the HCBBB Chairman.

(ii.) It is the intention of the HCBBB to provide an open access to the citizens of the county to speak on issues of county government. It is not the intention of the HCBBB to provide a public forum for the demeaning of an individual or organization. Failure to comply with the speaker policy shall subject the speaker to forfeiture of his remaining time.

(iii.) Any person making personal, impertinent, profane, or slanderous remarks or who becomes boisterous while addressing and/or attending the HCBBB meeting shall be removed from the meeting room if security is so directed by the presiding officer.

(iv.) Unauthorized remarks from the audience, stamping of feet, whistles, yells, and similar demonstrations shall not be permitted. The presiding officer may direct security to remove offenders from the meeting room.

2. AGENDA

- a. Agenda Posting:
No later than seventy-two (72) hours prior to meetings of the HCBBB, the Legal Notice and Agenda for the next meeting, together with a copy of the Minutes of the previous meeting, will be posted on the bulletin board, outside the Hudspeth County District/County Clerk's Office at the Hudspeth County Courthouse.

3. EXECUTIVE SESSION

- a. Briefings in Closed Session:
Prior to the HCBBB meeting, it shall be determined if an Executive Session is required for consultation with HCBBB staff or attorneys, as authorized by TOMA. Executive Sessions will be held at the date, hour and place given in the Notice for the meeting, by first convening in the regular session covered by the Notice, then adjourning to Executive Session, unless Executive Session is needed earlier in the meeting.

- b. **Action Regarding Matters Briefed in Closed Session:**
Should any final action, final decision or final vote be required in the opinion of the HCBBB with regard to any matter briefed in such Executive Session, then such final action, final decision or final vote shall be by open meeting. The open meeting for which Legal Notice was posted, upon the reconvening of this public meeting.

C. **HEARINGS GRANTING, DENYING, REVOKING AND SUSPENDING LICENSES AND ID CARDS**

1. **PROCEDURE FOR THE HCBBB TO MAKE DECISIONS**

- a. **General Application Procedure:**
Pursuant to Section 1704.157 of the Occupation Code, a preliminary determination shall be made by the HCBBB or the HCBBB's representative as to whether an individual or insurance company (the "Applicant") possesses the financial resources to comply with the Code and satisfies the other requirements of the Code. Next, according to Section 1704.158, the HCBBB shall conduct a hearing on the application. During the hearing, the HCBBB may submit to the Applicant and the Applicant's attorney any questions relevant to the HCBBB's decision on the application; and the Applicant may present oral and documentary evidence at the time. After the hearing, according to Section 1704.159, the HCBBB shall enter an order conditionally approving the application if the HCBBB determines that a ground does not exist to deny the application. If the HCBBB determines that a ground exists to deny the application, the HCBBB shall enter an order denying the application. An order issued under this section conditionally approving an application becomes final on the date the Applicant complies with the security requirements of Section 1704.160. The HCBBB shall then give written notice to the Applicant of the HCBBB's decision on the application.
- b. **Discretionary License Suspension or Revocation:**
Pursuant to Section 1704.252, after notice and a hearing, the HCBBB "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 fee 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 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."

- c. **Mandatory License Suspension or Revocation:**
Pursuant to Section 1704.253, "(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 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."

2. DAMAGING INFORMATION DISCOVERED AFTER LICENSE HAS BEEN GRANTED OR RENEWED

It will be the policy of the HCBBB to set hearings on licenses and I.D. cards as soon as reasonably possible when damaging information is discovered after a license has been granted or renewed based upon reliance on information that has later been discovered to be inaccurate. Hearings to suspend or revoke a license that are set at the HCBBB's own motion or as a result of a sworn complaint received by the HCBBB, shall be conducted pursuant to Section 1704.254 of the Occupation Code.

3. COMPLAINT INVESTIGATION AND DISPOSITION

- a. Pursuant to Section 1704.251 of the Occupations Code, if a complaint against a Surety is submitted to the HCBBB it will first be screened to determine if it provides reasonable cause to believe that a violation of the Occupation Code or these Procedures and Rules have occurred. All complaints received at least seven days before the regularly scheduled HCBBB meeting shall be placed on the agenda for that meeting so that the HCBBB can make this

determination.

- b. The County Attorney will make a recommendation to the HCBBB on the issue of whether a reasonable cause has been stated. If the HCBBB decides that a complaint does not provide reasonable cause as described above, the complainant and the Surety made the subject of the complaint shall be so notified in writing by the Chairman of the HCBBB.
- c. If the HCBBB determines that a complaint does state a reasonable cause as described above, or if a court requests an investigation, the HCBBB shall direct such investigation into the complaint as it deems necessary. This may include a request for affidavits, a request to produce evidence or a request that an agent of the HCBBB interview the Surety or his agents. Provided, however, that nothing herein shall operate to abrogate or diminish the HCBBB's statutory right to inspect on demand, whether in person or via a representative, the records a Surety must keep pursuant to the Occupation Code.
- d. Once the HCBBB's investigator completes the investigation, a report shall be given to the HCBBB to decide if a hearing shall be conducted to suspend or revoke the Surety's license or privilege. Both the complainant and the Surety who was the subject of the complaint shall be sent written notice of the HCBBB's decision.
- e. Hearings to suspend or revoke a license or privilege that are set at the HCBBB's own motion or as a result of a sworn complaint received by the HCBBB, shall be conducted pursuant to Section 1704.254 of the Occupation Code.

D. BONDSMAN/SURETY REQUIREMENTS

RULE 1: A Surety must take reasonable steps to insure that his employees comply with the Texas Occupations Code and the HCBBB Procedure & Rules.

RULE 2: Pursuant to § 1704.109 of the Occupation Code, the HCBBB may by rule, regulate bail bond solicitations or advertisements to protect the public from harassment, fraud, misrepresentation or threats to public safety; and to protect the safety of law enforcement officers.

RULE 3: Pursuant to § 1704.109 of the Occupation Code, the HCBBB prohibits bondsmen or their employees from loitering in or on the premises of the Hudspeth County Sheriff's Office or approaching or soliciting family members of detainees in or on the premises of the Hudspeth County Sheriff's Office.

RULE 4: Pursuant to 1704.302 of the Occupations Code, no Bondsman shall employ any person who, within the preceding ten (10) years, has been convicted of a misdemeanor involving moral turpitude or a felony. "Employee" as used herein shall mean any person hired by the Bondsman who performs any of the following duties:

- a. Meets and negotiates in person, or communicates on any telecommunication lines, with members of the public for the purpose of soliciting bail bonds; or
- b. receives money as a fee or money or real property as collateral for bail bonds; or
- c. presents bail bonds to the Sheriff's Department for approval; or
- d. interviews or takes information from persons who have been released from jail pursuant to a bail bond provided by the Bondsman.

RULE 5: An employee, as defined above, may not be employed by more than one (1) Bondsman in Hudspeth County. This rule shall not preclude an employee from working for a Bondsman who is also an insurance company's properly qualified corporate Agent. In such case, an employee may represent the Bondsman in either of the employer's capacities.

E. AMENDMENTS

This section is reserved for future amendments.