



## Department of Insurance

### State of Arizona

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#### REGULATORY BULLETIN 2011- 05<sup>1</sup>

To: All Surety Insurers Writing Bail Bonds in Arizona  
All Arizona Licensed Bail Bond Agents

From: Christina Urias  
Director

Date: June 7, 2011

RE: **Licensing Requirements to Write Immigration Bonds; Verification of Bail Bond Agent Licensure; and "Bond Slamming" Deterrence**

The purpose of this bulletin is to address three distinct bail bond and surety issues: 1) after July 10, 2011, bail bond agents writing immigration bonds must also have a property and casualty producers license; 2) surety insurers issuing bail bonds in Arizona should verify the licensure of their bail bond agents; and, 3) surety insurers should be aware of and discourage the practice of "bond slamming."

#### **1. Licensing Requirements to Write Immigration Bonds**

Historically, Arizona law did not draw a distinction between civil and criminal appearance bonds. Licensed bail bonds agents were able to write any type of appearance bonds including federal immigration bonds. During the last session, the Arizona Legislature passed HB 2109 which amends Arizona Revised Statutes (A.R.S.) §20-340 by adding a definition of "bail bond" and §20-340.01 by adding a new subsection (D) which specifies the type of license required to write immigration bonds in Arizona.

A.R.S. §20-340(1) defines a bail bond as any contract that is executed by a surety insurer for the release of a person who is arrested or confined for any actual or alleged violation of any federal, state or local **criminal law** where the released person's attendance in court when required by law and obedience to orders and judgment of any court is guaranteed. Under the new subsection (D) in A.R.S. §20-340.01, a person who is licensed as a bail bond agent in this state is not authorized to transact civil bonds in connection with contracts, administrative proceedings or other noncriminal matters on behalf of a surety insurer unless the bail bond agent is also licensed as a property and casualty producer.

As of July 20, 2011, the effective date of HB2109, licensed bail bond agents must also get a property and casualty insurance producer license to continue writing immigration bonds.

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<sup>1</sup> This Substantive Policy Statement is advisory only. A Substantive Policy Statement does not include internal procedural documents that only affect the internal procedures of the Agency, and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona Administrative Procedure Act. If you believe that this Substantive Policy Statement does impose additional requirements or penalties on regulated parties you may petition the agency under Arizona Revised Statutes Section 41-1033 for a review of the Statement.

## **2. Verification of Bail Bond Agent Licensure**

We encourage surety insurers contracting with Arizona bail bond agents to verify that the bail bond agent's license is in good standing to avoid incurring possible sanctions. The Department reports all administrative actions against a bail bond agent's license in the weekly report of the Director's Orders on the Department's website. [www.azinsurance.gov](http://www.azinsurance.gov). We also update the bail bond agent's licensing record that is accessible via the producer look-up function on the website. If the Department finds that a surety insurer is paying commissions to an unlicensed bail bond agent, the Director may issue a cease and desist order against the surety insurer pursuant to A.R.S. §20-292. The Director may also take administrative action against the surety insurer's certificate of authority (revocation, suspension or refusal to renew) and/or impose a monetary penalty pursuant to A.R.S §20-220.

## **3. "Bond Slamming" Deterrence**

It has come to the Department's attention that some bail bond agents engage in a practice commonly referred to as "bond slamming." "Bond slamming" is when a bail bond agent posts an uncollateralized bond, typically for a small amount, for a defendant's release. As a condition to posting the bond, the defendant agrees to be shackled by the bail bond agent in the agent's office or while in a vehicle with the agent, until the agent locates collateral to securitize the bond. Although Arizona's insurance statutes and rules do not address this practice, law enforcement authorities may consider it illegal activity. The Department encourages surety insurers to strongly discourage this practice by their contracted bail bond agents.

Please direct any questions related to this Regulatory Bulletin to Mary Kosinski at (602) 364-3471 or [mkosinski@azinsurance.gov](mailto:mkosinski@azinsurance.gov)