



► **Bail Bondsmen – General Information** ◀

March 25, 2022

- In 2021, the West Virginia Legislature enacted House Bill 2758 transferring the licensing of bail bondsmen from the courts to the Offices of the Insurance Commissioner (OIC).
- Pursuant to W.Va. Code §51-10-8(j), after July 1, 2022, a person shall not, either as principal, or as agent, clerk, or representative of an agent, engage in the bonding business unless licensed by the OIC. As such, beginning July 1, 2022 and thereafter, any person engaged in the bonding business must be licensed by the OIC to legally operate in West Virginia.
- The 2021 legislation further required the OIC to promulgate a rule to set forth the licensure qualifications and the terms and conditions upon which a bonding business may be conducted. The OIC's rule regarding bail bondsmen (114 CSR 103) was approved by the Legislature during the 2022 legislative session. The OIC intends to file the rule with the Secretary of State on July 1, 2022, with an effective date on July 1, 2022. The rule may be reviewed by clicking the following link: [114 CSR 103](#).
- On March 3, 2022, the West Virginia Supreme Court of Appeals entered an order authorizing existing bail bondsmen to continue conducting bonding business (effectively a “status quo” order) until July 1, 2022, when the bail bondsmen rule of the OIC becomes effective. As such, bail bondsmen should continue to apply to the courts for current approval to conduct business until July 1, 2022.
- The OIC must keep a list of all licensed bail bondsmen and, upon the request of a place of detention as defined in W.Va. Code §51-10-6, furnish an alphabetical list of all licensed bail bondsmen to the place of detention. The OIC will endeavor to provide each place of a detention with an updated list of licensed bail bondsmen on July 1, 2022, and will maintain an updated list thereafter on its publicly available website at www.wvinsurance.gov. The OIC will also endeavor to provide routine updates to places of detention, or provide updates upon request of a place of detention, so that the most up-to-date information is available to prisoners or detainees.
- Pursuant to the OIC rule, an individual may be licensed as a “professional bondsman” or a “surety bondsman” or both.
 - A professional bondsman is a person who has been approved and licensed by the OIC, pledges cash or approved securities with the OIC as security for bail bonds written in connection with a judicial proceeding, and charges, receives or is promised money or other things of value in exchange for his or her services.
 - A surety bondsman is an individual who has been approved and licensed by the OIC and appointed by an insurer by power of attorney to execute or countersign bail bonds for the insurer in connection with judicial proceedings, and charges, receives or is promised money or

other things of value in exchange for his or her services. A surety bondsman must hold a license as an insurance producer with a property and casualty line of authority.

- The OIC rule also provides information regarding licensure of bail bondsmen corporations. However, for purposes of the July 1, 2022, implementation date, only mandatory licensure of individual bail bondsmen will be required by the OIC. The OIC will provide further information regarding the licensure of bail bondsmen corporations in the future. Bail bondsmen who are working for a bail bonds corporation or business entity, should provide the name of the corporation or business entity to the OIC at the time of licensure.
- An individual is exempt from licensure as a bail bondsman if he or she pledges real or other property as security for a bail bond for himself, herself or another in judicial proceedings and if the person does not charge or receive, or is not promised, a fee or other thing of value in exchange for his or her services, provided that this exemption only applies if such person makes 10 or less bonds per year.
- An individual may apply to become licensed as a bail bondsman by fully completing the electronic application, which will be linked from the OIC's website at www.wvinsurance.gov. The OIC will provide additional information regarding electronic application as July 1, 2022 approaches.
- Should the OIC's electronic application process not be fully functional in time to issue new bail bondsmen licenses on July 1, 2022, the OIC will issue temporary licenses to bail bondsmen who are currently approved by a court to operate in this state. The OIC expects that any temporary license issued would expire after a finite period, likely 90 days, by which time the bail bondsmen should have been given enough time to complete the new licensure process with the OIC. A temporary license will only be extended past the expiration date for good cause shown. You may contact the OIC about obtaining a temporary license at OICBailBondsmen@wv.gov.
- An individual applicant for a bail bondsmen license will be required to submit to a criminal history record check in accordance with the provisions of W.Va. Code §33-12-37. The OIC currently undertakes this process in conjunction with the West Virginia State Police (WVSP) and Federal Bureau of Investigations (FBI) and utilizes the services of the WVSP's fingerprint vendor, Identogo. The applicant must pay the processing fee, currently \$45.75, to the vendor. The fee goes to the vendor, WVSP, and FBI. The OIC does not receive any portion of the fee or any other commission. The applicant will need to personally schedule an appointment with Identogo and the results will then be sent to the OIC directly through use of a designated code. The OIC will provide additional information regarding the process for obtaining a criminal history record check once the process is finalized.
- The application fee for a bail bondsmen license to the OIC is \$200.00 and nonrefundable. The license is valid for 2 years and, if applicable, must be renewed by the last day of the birth month of the individual bondsman. The expiration year will be established based upon the year of initial licensure. A \$200.00 nonrefundable fee is required with all renewal applications.
- A person whose application is denied may reapply, but the OIC may not consider more than one (1) application submitted by the same person within a 6-month period.
- A license issued by the OIC to a bail bondsman authorizes the licensee to act in that capacity until the license is expired, suspended or revoked. The license issued by the OIC will be a statewide license. However, a bail bondsman may denote specific counties in which he or she is available to offer services to the OIC during the application process, or at any time thereafter. If a bail bondsman

chooses to denote specific counties, the OIC will include that information on the list of licensed bail bondsmen that is provided to detention facilities.

- A bail bondsman must notify the OIC of a change of legal name, resident address, business address, mailing address, e-mail address or telephone number within 30 days after a change is made.
- The OIC is developing a process for an individual bail bondsman to receive an official picture identification card, which must be carried by the bail bondsman at all times when working in the scope of his or her occupation as a bail bondsman. The OIC anticipates collaborating with the Division of Motor Vehicles (DMV) to issue the picture identification card. The OIC will provide additional information regarding the process for obtaining the picture identification card once the process is finalized.
- A person may not, either as principal, or as agent, clerk, or representative of an agent, engage in the bonding business unless licensed by the OIC. A bail bondsman who employs an agent, clerk or representative may cancel the agent's, clerk's or representative's authority to act for the bail bondsman. When a bail bondsman cancels an agent's, clerk's or representative's authority, the bail bondsman must notify the OIC, in writing, within 10 working days.
- A bail bondsman's license can be suspended or revoked by the OIC for one of the reasons enumerated in §114-103-11. [114 CSR 103](#).
- When collateral or security is received by a bail bondsman, a written receipt shall be furnished. Receipts must provide a full description of the collateral received. Receipts must be prenumbered and used and provided in consecutive numerical order, show the name and address of the bail bondsman, show the address of the person providing the collateral, show the amount and nature of the collateral and the date received, show the name of the person accepting collateral, and show the total amount of the bond for which the collateral is being accepted, the name of the defendant, the criminal action number of the criminal proceeding, and the jurisdiction in which the criminal action is pending.
- When collateral or security is received in the form of cash or check or other negotiable instrument, the bail bondsman must deposit the cash or instrument within five (5) banking days after receipt in a separate, noninterest-bearing trust account in any bank located in West Virginia. The trust account funds under this section shall not be commingled with other operating funds of the bail bondsman.
- A professional bondsman must meet certain financial responsibility requirements which are more specifically set forth in §114-103-8. See [114 CSR 103](#). Generally, unless real property is used as security, a professional bail bondman must maintain a deposit of approved securities with the OIC and the deposit shall have a value of, at least, one-tenth of the amount of all bonds written in West Virginia on which he or she is absolutely or conditionally liable as of the first day of the current month. However, minimum deposit required is \$10,000. Approved securities can be in the form of an irrevocable letter of credit, an annuity, a bond, or a personal or business check, a money order, or a cashier's check. If a professional bail bondsman secures criminal bonds with real estate, the real estate is the approved security and the aggregate amount of the bonds written thereunder cannot exceed an amount equal to five times the unencumbered, current assessed value of the real estate listed (as determined by the county assessor). The real estate must be in West Virginia and must be unencumbered in, at least, the amount of minimum financial responsibility required.

- A professional bail bondsman must, upon request and as often as the OIC deems necessary, file an electronic report to the OIC showing each individual bonded, the date the bond was given, the principal sum of the bond, the court file or docket number for the principal's court obligation, and the fee charged for the bonding service in each instance.
- Each insurer that appoints a surety bail bondsman shall electronically file with the OIC a report regarding all bail bonds on which the insurer is liable as of the last day of each calendar quarter showing the total dollar amount for which the insurer is liable. The report shall be filed on or before the 15th day following the end of each calendar quarter. Before July 1 of every year, every insurer shall furnish the OIC a list of all surety bondsmen appointed by the insurer to write bail bonds on the insurer's behalf. An insurer who appoints a surety bail bondsman on or after July 1 shall notify the OIC at the time of appointment.
- A bail bondsman must notify the OIC if he or she files for bankruptcy protection, or any business in which the bail bondsman holds a position of management or ownership files for bankruptcy protection, within five (5) working days after the filing.
- All records relating to executing bail bonds, including bail bonds reports, receipts, collateral security agreements, and memoranda of agreements, shall be kept separate from records of any other business and must be maintained for not less than five (5) years after the final entry has been made. The OIC may visit and examine, or cause to be examined, any licensed bail bondsmen and shall have free access to all records of the licensed bail bondsman that relate to the licensee's business as a bail bondsman.
- It is incumbent upon a bail bondsman to be sufficiently familiar with all the provisions of W. Va. Code §51-10-1 *et seq.* and 114 CSR 103.
- Questions pertaining to OIC's licensure or regulation of bail bondsmen may be directed to: OICBailBondsmen@wv.gov. You may also contact the OIC at this email address to provide the OIC with updated contact information, including your name, address, telephone number and email address. The OIC will then add your information to its internal contact list so that you will receive updates and communications regarding the licensure and regulation of bail bondsmen.

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