



► **Bail Bondsmen – Individual Licensing** ◀

West Virginia Code §51-10-8(j) provides that, 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 Offices of the Insurance Commissioner (“OIC”). West Virginia Code §51-10-1(1) defines “bonding business” as the “business of becoming surety for compensation upon bonds in criminal cases in the State of West Virginia.” West Virginia Code R. §114-103-2.1 defines “agent,” “clerk” or “representative” of a bail bondsman as “a person employed by a bail bondsman for the purpose of assisting the bondsman in presenting a defendant in court or, if a power of attorney has been duly executed, issuing bonds on behalf of the licensed bondsman.”

Furthermore, W. Va. Code R. §114-103-3.1 provides that “on or after July 1, 2022, a person may not engage in the bonding business or act in the capacity of a bail bondsman, or perform any of the functions, duties or powers prescribed for bail bondsmen, unless that person shall be qualified and licensed by the [Insurance] Commissioner as provided in this rule.”

Accordingly, an employee of a bail bonding business must be individually licensed as a bail bondsman with the OIC if that person assists a bail bondsman in presenting a defendant in court or is issuing bonds on behalf of a licensed bondsman. An individual cannot operate as a principal, agent, clerk, or representative of an a bail bondsman and engage in the bonding business without his or her own individual license. Each individual must be qualified and licensed by the OIC and meet the requirements of W. Va. Code R. 114-103-1 *et seq.*

An employee of a bail bondsman or bail bondman’s business who performs solely clerical or administrative functions and does not engage in the bonding business, as defined, is not required to be licensed. Such clerical functions may include, but are not limited to, answering the telephone, scheduling appointments, word processing functions, or file and record management. However, if the employee issues bonds on behalf of the bail bondsmen, provides quotes for premiums or fees, accepts or negotiates for security or collateral, or is paid through a commission arrangement, it is likely that the individual is engaging in the bonding business and must be licensed.

This document is meant to provide general guidance only and is not exhaustive of all possibilities or scenarios. Every circumstance is unique and must be reviewed and examined on a case-by-case basis. Should there be any doubt, the best option for the employee is to err on the side of caution and seek licensure, or to contact the OIC for additional guidance.

To assist and educate bail bondsmen and other stakeholders, the OIC will, periodically, release brief guidance about certain issues regarding licensing and qualifications of bail bondsmen. Questions pertaining to this guidance or the OIC’s licensure or regulation of bail bondsmen may be directed to: OICBailBondsmen@wv.gov.

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