

COMAL COUNTY BAIL BOND BOARD
NEW BRAUNFELS, TEXAS
RULES AND REGULATIONS

Last Revision Date: 08/15/2017

PURSUANT to the **Texas Occupations Code, Chapter 1704** as amended by the 2001 Session of the Texas Legislature, the following rules and regulations are established to assist in governing the setting and taking of bail bonds in Comal County, Texas.

ARTICLE A

SECTION 1:

MEETINGS shall be held as posted in accordance with the **Texas Occupations Code, Chapter 1704**. Meetings shall begin at 8:30 A.M. and be held the 2nd Friday of each month, unless otherwise specified by the Presiding Officer.

SECTION 2:

ALL notices shall be posted on the bulletin board at the Comal County Courthouse, New Braunfels, Texas seventy -two (72) hours prior to the monthly meeting. All items to be placed on the upcoming Agenda shall be submitted to the Secretary of the Bail Bond Board seven (7) days prior to the monthly meeting.

THE office of the Board shall be the regular office of the individual serving as Secretary of the Board unless notice is posted to the contrary pursuant to resolution of the Board.

SECTION 3:

A. AT the organizational meeting and annually thereafter at the regular January meeting, the Board shall choose one of its members to serve as Presiding Officer until the next such annual election, unless he be sooner disqualified.

B. IN like manner, the Board shall choose an Assistant Presiding Officer who shall act in the temporary absence of the Presiding Officer. In the event the Presiding Officer be disqualified for any reason before the end of his term, the Assistant Presiding Officer shall automatically become the Presiding Officer. In such event, or if the Assistant Presiding Officer becomes disqualified, at the next regular meeting a new Assistant Presiding Officer shall be chosen.

C. IN like manner the Presiding Officer shall choose a secretary. The secretary shall be responsible for supervising the receipt of applications; the preparation of agendas; the preparation and certification of records and transcripts of proceedings; the maintenance of records and minutes of meetings; the publication or posting of notices; and the general office affairs not otherwise specifically assigned by these rules and regulations. The Secretary shall have no authority to bind the Board.

D. THE four Justices of the Peace of Comal County are authorized to designate the Justice of the Peace who shall serve on the Bail Bond Board.

E. IN accordance the Texas Occupations Code, Chapter 1704.053 (13) as amended by the 2003 Texas State Legislature, a criminal defense attorney practicing in Comal County along with their designee is to be elected to serve on the Comal County Bail Bond Board. The means of election is to be carried out by the Comal County Bar Association.

Changes to Bail Bond Rules/Regulations Article A Section 3 E.

(1) IN accordance the Texas Occupations Code, Chapter 1704.053 as amended by the 2015 Texas State Legislature, The board shall annually conduct a secret ballot election to elect the members of the board who serve as the representative of licensed bail bond sureties and the representative of the criminal defense attorneys by electing:

A. A licensed bail bond surety or agent for a corporate surety board member; and

B. A criminal defense attorney who is practicing in the county.

(2) **Election administration.** The election will be administered by the Comal County Sheriff's Office. The members of the Sheriff's Office who are charged with handling the election may enlist the assistance of others to help in the administration of the election.

(3) Nominations

A. Nomination Procedure

1. The nomination for the board member who is a surety or agent for a corporate surety will be accepted via email to the Board Secretary beginning the Monday of the November board meeting until the close of business on the Thursday of the same week. The Board Secretary will the present that nomination to the Board Members and be entered into the minutes of the meeting.

2. The nomination for the attorney representative to the Comal County Bail Bond Board will be accepted via email to the Board Secretary beginning the Monday of the November board meeting until the close of business on the Thursday of the same week. The Board Secretary will then present that nomination to the Board Members and be entered into the minutes of the meeting. When submitting your nomination, please ensure that the candidate is willing to accept this position. Additionally, please provide not only your contact information, but the nominee's contact information, which would include phone numbers and bar card numbers.

B. Who is eligible to submit a nomination

1. Only those eligible to vote under Section E. (4) A of this section are eligible to submit a nomination for the board member who is a surety or agent for a corporate surety.

2. Only those eligible to vote under Section E. (4) B. are eligible to submit a nomination for the board member who is a criminal defense attorney.

(4) Voter eligibility

A. Each individual licensed in the county as a bail bond surety or agent for a corporate surety is entitled to cast one vote for each license held to elect the board member who is a surety or agent for a corporate surety.

B. Each attorney who has a principal place of business located in the county and who is not legally prohibited from representing criminal defendants in the county is entitled to cast one vote to elect the board member who is a criminal defense attorney. Attorneys must show a copy of their State of Texas Bar Card to vote.

(5) Election place and time

A. Sureties – The election for the board member who is a surety or agent for a corporate surety shall be held at the Comal County Sheriff's Office, Bonding Section, from Monday until Thursday afternoon at 5 p.m. the week of the board's December meeting.

B. Attorneys – The election for the board member who is a criminal defense attorney shall be held at the Comal County Sheriff's Office, Bonding Section, on Monday through Wednesday from 9 a.m. until 1 p.m. and Thursday from 9 a.m. until 5 p.m. the week before the board's December meeting.

(6) Election procedures

A. Sureties – As bondsmen appear to vote as set forth in section (5)A, either their bondsman Identification Card or Texas Drivers License must be presented to identify them. Each bondsman will be required to sign his or her name adjacent to their name and license number as it appears on the current bonding list. Each bondsman will be allowed one vote for each license held. Each bondsman will then be handed a ballot to place his or her vote. The ballot will be placed in a sealed ballot box.

B. Attorneys – As attorneys appear to vote as set forth in section (5) B, they must present their Bar Card along with their Texas Drivers License. Once verified, each attorney eligible to vote will then be handed a ballot to place his or her vote. The ballot will be placed in a sealed ballot box.

C. A plurality vote is required. In order to prevail, a candidate must receive more votes than any other candidate for the office.

D. No proxy voting will be allowed.

E. No write-in votes will be allowed.

F. The results of the election for both the representative of the licensed bail bond sureties and the representative of the criminal defense attorneys will be announced at the December meeting of the board.

G. In the case of a tie, the winner will be decided by the flip of a coin.

(7) The term of office continues until a successor takes office.

ALL proceedings not governed by specific statutory provision or by rule of this Board shall be conducted in accordance with Roberts Rules of Order and the presiding officer shall be ex-officio Parliamentarian.

ARTICLE B

LICENSING REGULATIONS

SECTION 1:

APPLICATIONS for a “Bondsman’s License” shall be on the form adopted by this Board and set forth as “Appendix A” and “Appendix B” to those rules and regulations.

SECTION 2:

WHERE an enclosure or an appendix is required in connection with an application, same shall be firmly affixed to the application and included within the oath as set forth in the body of the application.

SECTION 3:

WHERE an applicant proposes to do business under an assumed name, proof shall be submitted showing registration of said assumed name with County Clerk of Comal County.

SECTION 4:

APPLICATIONS shall be submitted to the Secretary of the Bail Bond Board with an original and twelve (12) copies, no later than twenty-one (21) business days prior to the scheduled meeting and such applications shall remain confidential until considered at an open meeting of the Board. The application shall be accompanied by a fee of \$500.00 for the filing of any original application.

SECTION 5:

A. THE Secretary shall cause such investigation to be made as has been established by resolution of the Board or as is required by law.

B. UPON completion of such investigation, the Secretary shall furnish a complete copy of all reports together with a copy of the application to each member of the Board not less than fourteen (14) days prior to the meeting at which the application is to be considered.

C. APPLICATIONS shall be considered at each regular meeting of the Board.

SECTION 6:

EACH applicant shall be notified by the Secretary to appear in person, or in the case of a firm or corporation by designated representative, before the Board on the date his application is to be considered for such interrogation under oath as the Board or any of its members shall deem proper.

SECTION 7:

DISCUSSION of applicants and applications shall be in open session.

SECTION 8:

UPON approval each licensee shall be assigned a license number. All licenses and official identification cards shall be obtained from the Comal County Sheriff's Office. The licensee must contact the Sheriff's Office for an available time @830-620-3400.

SECTION 9:

(1) If real property is provided as security when property is first pledged, the applicant, at his own expense, shall provide a Deed of Trust in form acceptable to the Comal County Bail Bond Board and shall file such deed of trust in the County in which the property is located. The applicant shall also provide, at his own expense, documentation of a title search on the property specifying that the property is not encumbered by any other liens and there is no cloud on the title.

At the time of licensure or renewal each applicant or licensee pledging real property shall provide at their own expense and in a form acceptable to the bail bond board, a notarized designation of homestead or a notarized affidavit of non-homestead and proof of the existence of a homestead other than the property pledged to the bail bond board. Failure to provide such evidence that the pledged property is not claimed as homestead, shall cause the applicant or licensee's pledged security to be reduced by the value of the property.

(2) If other security is offered as collateral, the applicant shall deposit with the Comal County Treasurer a cashier's check of unlimited time duration, an automatically renewable non-negotiable certificate of deposit (Which shall include an assignment on a form approved by the Board), or cash, in the amount indicated in the applicant's application, but in no event less than \$50,000.00.

Cashier's checks and certificates of deposit intended for use as security for a bail bond license must meet the following requirements:

- (a) Must be styled, "**(surety's name)** for the benefit of **the Comal County Treasurer**";
- (b) If the applicant is an individual, a certificate of deposit must be endorsed by the individual applicant. If the applicant is a corporation, a certificate of deposit must be endorsed by a corporate officer listed in the most recent annual company statement filed

with the Texas Department of Insurance and who is authorized to endorse the certificate of deposit; and

- (c) Must include a security assignment agreement executed by the applicant and the issuing bank. The applicant shall deliver the original to the Board and the applicant shall provide the bank a copy. The Board will not accept cashier's checks or certificates of deposit containing, or subject to, set-off provisions.
- (d) Any licensee that requests a return of the interest drawn on a certificate of deposit pledged as security, and that certificate of deposit is not in the current Comal County bank depository, that licensee must request, in writing, a release of that interest and provide a copy of their most current account statement. This request tendered approved by the Sheriff and the County treasurer.
- (e) Bonding Companies that have CD's pledged (Certificates of Deposits) are required to attach to their appendix D, monthly report, and their current/monthly certificate of deposit statements.

SECTION 10:

AMENDMENT OF LICENSE APPLICATION

A. (1) IF any of the information required by the original license application changes, the licensee shall file an application to amend its license within ten (10) days of the change to correct the license application to reflect the change. The application to amend the original license application accompanied by a fee of \$50.00 will be submitted to the office of the Secretary of the Board. The fee will be turned over to the Comal County Auditor for depositing into the General Fund and the changes noted.

ARTICLE C

TAKING OF BAIL

SECTION 1:

A. **REQUIREMENT** as to out-of-county bonds. Each licensee shall file with the Sheriff of Comal County, Texas, the Chairman of the Comal County Bail Bond Board, and the County employee designated by the board under the Texas Occupations Code, Chapter 1704 on the tenth (10th) day of each month, a statement of Judgment Nisi and Final Judgments taken against him on out-of-county bonds. Such report shall contain the number of the case, the name of the principal, the date of the execution and approval of the bond, and the total aggregate sum of Final Judgments not paid, under oath and signed by the licensee. Such statement must be made on the form (attached hereto as Appendix D) prescribed by the Board.

B. IDENTIFICATION card. An identification card or copy of license certification issued to the licensee, agent, or employee must be presented to the bonding desk at the time the bail bonds are presented.

C. OFF Bond Application or Affidavit. Affidavits for Surety to Surrender shall be processed with the court having jurisdiction as follows:

- a. Before the Court or Magistrate in which the prosecution is pending (prior to formal charges being filed)
- b. With the Court in which the formal charging instrument has been filed.

ARTICLE D
RECORDS REQUIRED OF LICENSEES

SECTION 1:

NOT later than the 10th day of each month, each licensee shall furnish to the Secretary the information requested on the form entitled “Monthly Report”, attached hereto as “Appendix D”.

A. Effective 09/09/2011 Pursuant to 1704 all Bonding companies on a 36 month renewal must submit an annual financial statement to the Bail Bond Secretary not later than the 1st day of March of each year.

B. Companies that have property up with the County must also provide a copy of their current tax receipt showing that the property taxes have been paid in full, not later than the 1st day of March of each year.

ARTICLE E

COMPLAINTS

SECTION 1:

ALL complaints, other than those considered by the Board on its own motion or at the request of a Court, shall be specific as to date, party, and conduct complained of and shall be in writing and sworn to.

SECTION 2:

THE Secretary of the Board is designated as the agent of the Board for the receipt of complaints.

SECTION 3:

UPON receipt of a complaint, the Secretary shall cause to be transmitted to each member of the Board a copy thereof.

SECTION 4:

THE Board shall consider said complaint at the next regularly scheduled meeting of the Board, unless considered earlier at a special or emergency session called by the Presiding Officer of the Board.

SECTION 5:

THE Secretary shall give such notice as the circumstances permit to the complainant and licensee complained of, advising them of the time and place when the Board shall consider such complaint.

SECTION 6:

UPON presentation of a complaint to the Board, the Board shall make such orders as it deems appropriate respecting the investigation and prosecution of said complaint.

SECTION 7:

IF the complaint related to a licensee who is also a member of the Board, said licensee shall be temporarily disqualified as a member of the Board to consider said complaint pending final disposition of the complaint.

ARTICLE F

**PROVISION FOR AUTOMATIC SUSPENSION OF LICENSE
IN VIOLATION OF SECURITY REQUIREMENTS**

SECTION 1:

THE Secretary is designated as the person to maintain a current total of bondsman's potential liability on bonds in force as required by the Texas Occupations Code, Chapter 1704.

SECTION 2:

A. VIOLATION of rule or regulation. A violation of any of the rules or regulations of the Comal County Bail Bond Board or the laws of the State of Texas or the United States shall be considered as ground for suspension and/or revocation of any license of a bail bondsman.

B. FAILURE to meet reporting requirements. If any licensee fails to comply with the reporting requirements he/she shall be immediately denied the privilege of making bail bonds.

C. DEFAULT on final bond forfeiture. Where an individual or corporate licensee holds more than one license and is in default on any final bond forfeiture judgment on any of

the licenses, all licenses will be immediately suspended until satisfaction of the default is made.

ARTICLE G
AGENT IDENTIFICATION CARD

SECTION 1:

AN identification card issued to the licensee or his agent by the Comal County Bail Bond Board must be presented each time a licensee or his agent presents a bail bond for the release of a prisoner. Such identification card shall be issued to the licensee or for his agent in accordance with the provisions of these Regulations.

A. THE application for an agent identification card shall be in the form adopted by the Board and set forth as “Appendix C” to these rules and regulations.

B. NO person may simultaneously be the designated agent of more than one licensee. No person duly licensed by this Board may also be the designated agent of another licensee except as the agent of an insurance company licensed by this Board.

SECTION 2:

IF a licensee revokes the authority of any of its agents to make bail bonds on its behalf, or if any agent terminates his employment with the licensee, the licensee shall give written notice of such action to the Secretary and shall surrender to the Secretary the identification card previously issued for such agent, unless good cause be shown why the identification card cannot be returned.

The above notice and surrender of identification card shall be given within ten (10) days of the date of the agent’s authority is revoked or his employment with the licensee is terminated.

SECTION 3:

A request for an identification card for persons to be designated as agents shall be accompanied by a check payable to the County Auditor of Comal County in the amount of **\$5.00** to cover the costs relating to the issuance of such identification card. This fee shall be dealt with in the same manner and for the same purposes as original license fee under the Bail Bond Act.

AN original and twelve (12) copies of the application shall be filed with the Secretary, accompanied by copy of the driver’s license and social security card.

Transmit a copy of the same to other Board members, and will be placed on the following Agenda, if it is received by the deadline, Friday, 5pm 1 week prior to the meeting.

Approval of agent will be determined by the Bail Bond Board at the next scheduled meeting. If no objection is made by any Board member or other interested person, it shall be deemed approved.

IF for any reason a question is raised as to whether the identification card should be issued, the Secretary shall notify the licensee and his agent of the meeting and of the grounds for objection to the approval of the application, if they are not present at the meeting.

If an agent application is denied for any reason the applicant cannot reapply for a minimum of 3 month from date of denial.

SECTION 4:

- A. **IF** an agent knowingly gives any law enforcement officer or official false information regarding his knowledge of the whereabouts of any person for whom a warrant of arrest or capias is outstanding, the agent's identification card may be suspended or revoked.

ARTICLE H

MISCELLANEOUS PROVISIONS

SECTION 1:

- A. **THE** Secretary, under the direction of the Board, shall publish a list of licensees by proper name and showing the business address and telephone number of each licensee. The List shall include a listing of the Bonding Agents of each Licensed Bondsman. This list showing the active Bonding Companies will be rotated from bottom to top on a bi-weekly basis.
- B. **NO** Sheriff, peace officer, or his deputy or employee or clerk or deputy clerk of an court will permit any identifying or emphasizing mark to be made on such published list. If the published list be so marked it shall be the responsibility of said peace officer or clerk to obtain a new unmarked list for display.
- C. **NO** unlicensed person (even those exempt from licensing) may be placed on the list.

SECTION 2:

NO bondsman (licensed or exempt) shall place or permit to be placed, any advertising at any place where prisoners are examined, processed or confined. The dissemination of personal or professional cards shall be deemed advertising.

SECTION 3:

TELEPHONE directory advertising for licensee shall be listed in the proper name of the licensee and may contain assumed or corporate names.

SECTION 4:

ADVERTISING for a licensee shall not contain any representation that the licensee is associated with any attorney or any firm that engages in investigative services.

SECTION 5:

IF any provision of these Rules and Regulations or the application hereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of these Rules and Regulations which can be given effect without the invalid provision or application, and to this end, the provisions of these Rules and Regulations are declared to be severable.

SECTION 6:

THE licensee shall immediately notify the Secretary in writing if it ceases to be actively engaged in the bail bond business at its designated location and shall within ten (10) days of the event notify the Secretary of any change in the information provided in the licensee license application for which an amendment of the license application is required by Article B, Subsection 10 (A) of the Comal County Bail Bond Regulations.

ARTICLE I

OFFICE LOCATION/DESCRIPTION

IN accordance with the Texas Occupations Code Chapter 1704 the following is a description of the office to be maintained within Comal County:

- A. Office location means a permanent physical address.
- B. The designated building is to be used for commercial purposes, or it is in an area exclusively dedicated to the bonding business within a building used for non-commercial purposes.
- C. The files relating to the bail bond surety's business for Comal County are maintained at that location.
- D. The majority of the bail bond surety's business relating to Comal County is conducted at that location.
- E. The bail bond surety or an employee of the bail bond surety will be physically available at the business location within a 2 hour notice. Posted at the office location must be a sign stating the time of return.
- F. The local phone line advertised by the bail bond surety must be physically installed at the business location.

ARTICLE J

PROCEDURES FOR A LICENSEE TO CEASE OPERATIONS

SECTION 1:

Definitions

As used in this Article the terms:

A. "Ceasing Operations" means to stop performing or accepting any new business as a licensee such as:

1. The writing of any bond or obligation
2. The accepting of any new work for either new or existing clients
3. Pledging any new security or surety in any amount to cover a bond increase for a presently outstanding bond;
4. The solicitation or advertisement of new business, or
5. Any other action reasonably calculated to cause any ordinary person to believe that the licensee is still licensed to do business as a licensee

B. "Client" means the defendant in a criminal case for whom licensee has pledged surety to ensure the defendant's appearance in court.

SECTION 2

Applicability

This Article shall apply to any licensees who desire to terminate his or her status as a licensee in good standing with the Board. To the extent that any provision of this Article is later deemed to be unenforceable by the Board or determined by a Court of competent jurisdiction to be invalid, void or against public policy, all other provisions of this Article shall continue.

SECTION 3

General Provisions

A Licensee may at any time and for any reason cease doing business as a licensed bondsman in this county provided that before ceasing operations the licensee is in full compliance with **Section 4** of this Article.

SECTION 4

Actions Required to Cease Operations

Prior to ceasing operations the licensee shall:

- A. Give written notice to the Sheriff's Office indicating the licensee's intent to cease operations.
 1. Notice is effective immediately upon receipt by the Sheriff's Office unless the notice contains a specified effective date
 2. Notice may be in any written form so long as it is signed by the licensee
 3. The Sheriff's Office shall confirm in writing by certified mail, return receipt

requested, to the licensee's listed place of business the receipt of any notice to cease operations and the effective date of such notice.

B. Pay in full any and all outstanding judgments or obligations owed to the County.

C. Make a written request of both the County Clerk and the District Clerk to certify that all outstanding judgments or obligations owed to the Board have been paid in full. The clerk shall timely provide a certified statement of account to the Sheriff's Office.

SECTION 5

Duties Upon Ceasing Operations

Upon ceasing operations the licensee shall:

A. Continue to maintain all records as required of a licensee.

B. Continue to maintain adequate security with the Board to cover all outstanding bail bonds.

C. Continue to maintain a local principal place of business in the county with at least one listed local telephone number to receive telephone calls from clients.

D. As soon as reasonably possible, remove all external business signage and advertising with the exception of reasonable signage at the principal place of business consistent with a business that is in the process of ceasing operations as a going concern.

SECTION 6

Prohibited Actions Upon Ceasing Operations

Upon ceasing operations a licensee is prohibited from:

A. Soliciting or accepting any new business from either a new or an existing client.

B. Pledging any new security or surety in any amount to cover a bond increase.

C. Causing any new external business signage or advertising to be created with the exception of replacement signage at the principal place of business if the previous signage was damaged, destroyed, worn or changed due to weather, natural circumstances, building modifications or other acts outside the control of the licensee.

D. Rescinding the written notice to the Sheriff's Office indicating intent to cease operations without re-applying for a license from the Board as new licensee.

- E. Serving on the Board as either the bondsman's representative or designated alternative.

SECTION 7

Permitted Acts of a Licensee Ceasing Operations

Unless otherwise prohibited, a licensee who is ceasing operations may at any time:

- A. Change or Move the telephone number or principal place of business with reasonable written notice to both the Board and all clients.
- B. Employ up to the number of licensed agents to run the operations of licensee's business as were in the employ of licensee at the effective date of the written notice as required by Section 4A.
- C. Petition the Board to release any excess security held by the Board thirty (30) days after final disposition of all appeals for which security is pledged.
- D. Petition the Board to accept substitute securities provided the total amount of securities pledged is sufficient to cover all of licensee's outstanding obligations.
- E. Petition or appear before the Board for any other lawful purpose.
- F. Refer any new business inquiries to any other current licensee of this county. Nothing in this section shall prohibit an exclusive referral agreement between a current licensee and a licensee ceasing operations.
- G. Sell, assign, donate or otherwise dispose of any business asset or liability that is not pledged to the Board as security or protected by any applicable privacy law to any bona fide good faith purchaser.

SECTION 8

Transfer of Obligation to Another Licensee

Nothing in this Article shall prohibit a licensee who is ceasing operations from transferring or assigning the ownership and duties of bond obligation for any bail bond written by a licensee prior to ceasing operations to another current licensee of this county provided:

- A. The licensee ceasing operations files a petition with the Court, in which a bail bond has been made, to accept the transfer of bond obligation. The petition for transfer of bond obligation shall:
 - 1. Be signed by all parties to the bail bonds, including the intended recipient of the transfer of bond obligation;

2. Include a sworn affidavit by the intended recipient of the transfer of bond obligation that the intended recipient is a current licensee of this county and has sufficient security pledged with the Board to cover the proposed transfer of bond obligation, and;
 3. The client is not charged any fee for the transfer of bond obligation.
- B. In order to effect the smooth and orderly transfer of bond obligation as provided for this Section, the Board shall work with the Courts of this county to develop and publish written procedures and forms for the transfer of bond obligation so that the client does not need to make an appearance in court other than regularly scheduled court appearances.

SECTION 9

Exemption from License Requirements

Upon the effective date of the written notice as required by Section 4 A, a licensee shall be exempt from:

- A. Applying for a license renewal with the Board, pursuant to Chapter 1704.162 of the Texas Occupations Code
- B. The payment of any fee associated with license renewal pursuant to Chapter 1704.162 of the Texas Occupations Code.

CONFORMITY CLAUSE

IT is the purpose of these Rules and Regulations to conform in the entirety with the Texas Occupations Code, Chapter 1704 as amended by the 2009 Session of the Texas State Legislature. If there be any conflict between these Rules and Regulations and the above referenced statute, the statute shall control.