

HOPKINS COUNTY BAIL BOND BOARD PROCEDURES & RULES  
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TABLE OF CONTENTS

1.	ADMINISTRATIVE & ENFORCEMENT AUTHORITY.....	3
2.	HCBBB MEMBER & STAFF.....	3
a.	HCBBB Member Duties.....	3
3.	QUARTERLY MEETINGS.....	3
a.	Section 1704.055.....	3
b.	Public Notice.....	3-4
c.	Agenda.....	4-5
d.	Executive Session.....	5
e.	Conflicts of Interest between Members and the HCBBB.....	5
f.	Proceeding Not Specifically Governed by These Procedures.....	6
4.	ELECTIONS.....	6
a.	Board Officers.....	6
b.	Bondsman Representatives.....	6
5.	LICENSE AND RENEWAL APPLICATIONS.....	6-9
a.	Original Applications Generally.....	7
b.	License Expiration.....	7-8
c.	False Information and Omissions.....	8
d.	Damaging Information Discovered After License Has Been Granted or Renewed.....	8-9
e.	Corporate Power of Attorney.....	9
6.	HEARINGS AND AGENDA MATTERS.....	9-10
a.	License Application and Renewal Hearing Procedure Generally.....	9
b.	License Application and Renewal Hearing Timing.....	9-10
c.	Incomplete Submissions.....	10
d.	Incomplete Materials.....	10
7.	SECURITY.....	10-14
a.	Security Generally.....	10
b.	Cash and Cash Equivalent.....	10-11
c.	Real Property.....	11-14
8.	WITHDRAWAL OR EXCHANGE OF SECURITY.....	15
9.	BONDSMAN REQUIREMENTS.....	15-18

10.	CONDUCT OF BAIL BOND BUSINESS.....	18
11.	EMPLOYEE REQUIREMENTS.....	18-19
12.	COMPLAINTS CONCERNING BONDSMEN AND THEIR EMPLOYEES.....	19
13.	FORFEITURES.....	20-21
14.	CESSATION OF BUSINESS.....	21
15.	APPEAL.....	21-22
16.	RULES CUMULATIVE.....	22
17.	EFFECTIVE DATE.....	22

**PROPOSED BY HOPKINS COUNTY BAIL BONDSMEN ASSN.**

HOPKINS COUNTY BAIL BOND BOARD PROCEDURES & RULES

**1. ADMINISTRATIVE & ENFORCEMENT AUTHORITY**

Chapter 1704 of the Texas Occupation Code (the “Bail Bond Act”) contains regulations for bail bond sureties. The Bail Bond Act governs the actions the Hopkins County Bail bond Board (the “HCBBB”) may take when regulating bondsmen in Texas.

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

**2. HCBBB MEMBER & STAFF**

a. HCBBB Member Duties:

To fulfill the duties listed in Subchapter C of the Bail Bond Act, the HCBBB members are generally to: promptly attend all HCBBB meetings; participate in deliberations of the HCBBB; participate in hearing before the HCBBB; vote on matters before the HCBBB; and advise the HCBBB on matters that are within each member’s unique area of expertise. In addition to the duties of being a HCBBB member, the Chairman must generally preside over HCBBB meetings, including Executive Sessions; conduct the voting of members at hearings before the HCBBB; prepare and post notices, agendas and prior minutes of the HCBBB as required by the Texas Open Meetings Act.

**3. QUARTERLY MEETINGS**

a. Section 1704.055 of the Bail Bond Act sets out general requirements for bail bond board meetings. “A board in a county with a population of less than 50,000 shall meet at least four times each year during the months of January, April, July, and October at the call of the presiding office. The HCBBB, as a governmental body, must also hold its meetings in compliance with the Texas Open Meetings Act (“TOMA”), as amended. The provisions of TOMA are located in Chapter 551 of the Texas Government Code. Section 551.002 of TOMA states “Every regular, special, or called meeting of a governmental body shall be open to the public, except as provided by this chapter.”

b. Public Notice:

Meeting Date: The HCBBB will hold its regular meetings on the first Monday of the month stated in Sec. 3 (a) at 2:00 p.m. in the Hopkins County court Meeting Room 1, unless otherwise specified by the Board Chair. When the regular scheduled meeting date falls on a County holiday, the Board Chair shall designate another day that same week for that month’s meeting. The

HCBBB may meet more than once a quarter, if desired, as long as the meeting is posted seventy-two (72) hours before the scheduled time of the meeting, except for emergency meetings.

Notice Required for Meetings Generally: Section 551.045 of TOMA requires that 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.

Emergency Meeting: Section 551.043 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. 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 unforeseeable situation."

c. Agenda:

Agenda Posting: The legal Notice and Agenda for the next meeting will be posted at the front door of the Hopkins County Courthouse 1<sup>st</sup> Floor Courtroom, 118 Church St., Sulphur Springs, Texas.

Agenda Items Generally: Matters to be considered at the next regularly scheduled HCBBB meeting must be submitted to the Board Secretary as early as possible, but at least 7 business days prior to the meeting. Failure to timely submit all necessary documents will result in the matter not being placed on the agenda to be heard by the HCBBB until such time as the item has been submitted timely and in complete form.

Agenda Items Requested by HCBBB Members: If a HCBBB member wishes to add a subject to the agenda of the next regularly scheduled quarterly meeting, the member should make a request to the Board Secretary as early as possible, but at least one week prior to the meeting.

Request to Remove Hearing from Agenda: If a matter has been placed on the HCBBB agenda, and later is requested to be withdrawn from the agenda prior to the hearing (due to a reason that is not the fault of the HCBBB), the request to have the matter withdrawn must be in writing and the matter shall not be heard during a sixty (60) day period from the date of the request to withdraw; however, the HCBBB, in its sole discretion, may continue the item until the next regularly scheduled quarterly meeting. If a matter has been placed on the HCBBB agenda to be heard, and due to a circumstance caused by the HCBBB, it is not heard, the matter will be continued until the next regularly scheduled quarterly meeting.

- d. Executive Session:  
Briefings in Closed session: Prior to the HCBBB meeting, it shall be determined if an Executive Session is desired. 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, and then adjourning to Executive Session.

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 at either:

1. An open meeting for which Legal Notice was posted, upon the reconvening of the public meeting: or
2. A subsequent public meeting of the HCBBB upon notice thereof, as the HCBBB may determine.

Attorney Consultation in Closed Sessions: Section 551.071 of TOMA provides that a government body may have private consultations with its attorney regarding pending or contemplated litigation, and selected other matters. Prior to the portion of the Executive Session where the HCBBB's attorney gives its briefing to the HCBBB, the Board Chair should state that the HCBBB is going off record for a private attorney consultation permitted under Section 551.071 of TOMA.

Who May Attend: Under TOMA, governmental board members may not receive "general staff briefings" from their employees in private, nor may they consult with third parties in private. HCBBB members, Board attorneys and other employees of the Board will be allowed to attend Executive Sessions. However, employees will only give briefings in accordance with specific exceptions to TOMA.

- e. Conflicts of Interest Between Members and the HCBBB: To maintain the confidentiality necessary to further the rendition of professional legal services to the board; HCBBB members who are parties in pending or contemplating litigation against the HCBBB will not be permitted to remain present for the portion of a closed session in which the HCBBB is briefed by its attorneys regarding that pending or contemplated litigation. Consequently, their chosen designee or alternate may take their place.
- f. All proceedings not specifically governed by these Procedures & Rules or the Bail Bond Act shall be governed by Robert's Rules of Order, Revised.

#### **4. ELECTIONS**

- a. Board Officers:  
At its regular July meeting, the Board shall elect from among its members a

Chairman of the Board and a Board Secretary.

b. Bondsman Representatives:

Licensed bondsmen shall elect their own representative to the HCBBB from the licensed bail bond sureties authorized to operate in Hopkins County. The election will be held on the first Tuesday in June of each year.

The Sheriff's Department shall maintain a ballot box between 9:00 a.m. and 4:30 p.m. local time on Election Day. The voting will be by secret ballot, with ballots provided by the Sheriff's Department. Each licensed bondsman may vote for one board representative. Each bondsman is entitled to one (1) vote. The agent designated by a corporate bondsman may vote on behalf of the corporation.

Each bondsman shall vote in person during the above hours only on Election Day, or deliver to the Sheriff's Department, during the above hours on Election Day, a ballot accompanied by a sworn statement from the bondsman that the ballot represents their vote.

The bondsman receiving a majority of the votes cast will be certified as the winner of the election and will be the bail bond surety representative to the HCBBB. If no bondsman receives a majority of the votes cast, a run-off election will be conducted two (2) days later under the same format and procedures. The two (2) bondsmen that receive the most votes cast in the first election will be the only two (2) candidates on the ballot in the run-off election. The bondsman receiving the most votes in the run-off election will be certified the elected representative for the HCBBB. If three (3) or more bondsmen receive the same number of votes in the first election, and more than any other bondsman, then all such bondsmen will be included in the run-off election ballot. If the run-off election also results in a tie, the HCBBB will conduct further elections in the same format as above. The votes will be counted and the results posted by the Sheriff's Department representative to the HCBBB.

The term of office is one (1) year, starting the 1<sup>st</sup> day of July in each year.

## 5. LICENSE AND RENEWAL APPLICATIONS

a. Original Applications Generally:

An original application must meet all requirements of the Bail Bond Act and the Procedure & Rules manual of the HCBBB. The applicant may apply for a bail bond license in Hopkins County by completing the approved application form and submitting all documents, as required by the Bail Bond Act, including authorizations to verify all financial information contained in the application. The authorizations will be directed to each financial institution listed on the application authorizing release to the Hopkins County Sheriff

Department and the HCBBB of any and all information relative to the financial information listed on the application. In addition, all other assets, whether business or personal, must be accompanied by authorizations directed to the financial institution(s), organization(s), or individual(s) who administer, hold or verify the existence of the assets and to release any and all information relative to the asset(s). If the HCBBB requests additional authorizations from the Applicant, such authorizations must be provided within five (5) business days from the request.

The applicant must file the original application and all supporting documents, along with nine (9) copies, in complete form, with the HCBBB Secretary.

Renewal Applications Generally:

All renewal applications shall comply with the requirements for an original license as required by Sec. 1704.162 of the Bail Bond Act.

The renewal applicant must file the original application and all supporting documents, along with nine (9) copies, in complete form, with the HCBBB Secretary.

License Fees:

License filing fees shall be payable to the Hopkins County Treasurer. A copy of the receipt for payment of the license fee must be attached to the application prior to submission to the Hopkins County Bail Bond Board Secretary.

- b. License Expiration:  
A license issued hereunder expires 24 months after the date of its issuance and may not be renewed unless an application for renewal is timely filed with the HCBBB. It is the responsibility of the license holder to apply for renewal and if a renewal application is not timely filed, the licensee may not execute bail bonds after a license has expired until a renewal license is issued.
  
- c. False Information and Omissions:  
If the applicant of license holder receives a hearing on a license and at the hearing it is discovered that the applicant made a false statement, misrepresentation or material omission in an application for an original or renewal license or in any hearing before the HCBBB, or if the applicant refuses to answer any questions submitted by the HCBBB in a hearing relevant to the license or the conduct or qualifications of the applicant, the application shall be denied.

An original or renewal applicant who has been denied a license or I.D. card for making a false statement, misrepresentation or material omission in an

application for an original or renewal license or in any hearing before the HCBBB, or if the applicant refuses to answer any question submitted by the HCBBB in a hearing relevant to the license or the conduct or qualifications of the applicant or license holder, the applicant may not re-submit an application, nor will the applicant's reapplication be accepted by the HCBBB for a period of twenty-four (24) months from the date of the denial of the application.

**Sec. 1704.254. Notice and Hearing**

- (a) Notice of a hearing to suspend or revoke a license under this chapter must:**
  - (1) Be sent by certified mail to the last known address of the license holder not later than the 11<sup>th</sup> day before the date of the hearing;**
  - (2) State each alleged violation of this chapter; and**
  - (3) Include a copy of any written complaint on which the hearing will be based.**
- (b) The hearing is limited to each alleged violation stated in the notice.**
- (c) During the hearing, the license holder:**
  - (1) Is entitled to an opportunity to be heard; and**
  - (2) May present and cross-examine witnesses.**
- (d) The hearing must be recorded. A license holder may obtain a copy of the record on request and payment of the reasonable costs of transcription.**

d. Damaging Information Discovered After License Has Been Granted or Renewed:

It will be the policy of the HCBBB to set hearings on licenses as soon as reasonably possible when damaging information is discovered after a licensee has been granted or renewed based upon reliance on information that has later been discovered to be inaccurate. Hearing 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 Bail Bond Act.

e. Corporate Power of Attorney:

If the conditionally approved applicant is a corporation, in addition to the security requirements, the original qualifying power of attorney shall be filed with the Hopkins County Clerk and a file marked copy of such power of attorney shall be substituted in the HCBBB's records. The power of attorney must be filed, and proof of such filing must be provided to the HCBBB Secretary, before the agent approved for the corporate surety writes any bonds. It is the applicant's responsibility to ensure that the power of attorney is properly filed with the County Clerk.

## 6. HEARING AND AGENDA MATTERS

- a. License Application and Renewal Hearing Procedure Generally:  
Pursuant to Section 1704.157 of the Bail Bond Act, a preliminary determination shall be made by the HCBBB or the HCBBB's representative as to whether the applicant possesses the financial resources to comply with the Bail Bond Act and satisfies the other requirements of the Act. Next, according to Section 1704.157, 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 that time. After the hearing, if the applicant's current license has not been suspended or revoked and the application complies with all requirements, under 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 the application becomes final on the date the applicant complies with the security requirement(s) of Section 1704.160 and these Rules.

An officer or direction of an insurance company shall appear in person before the HCBBB at each hearing to act upon the licensing or renewal licensing of said corporation and each of its agents.

- b. License Application and Renewal Hearing Timing:  
An original or renewal license application shall be turned in to the Board Secretary for consideration and possible action at the next regularly scheduled board meeting that occurs at least 31 days after receipt of the application. However, an original or renewal license application may be placed on the Board's agenda for consideration and possible action at the next regularly scheduled Board meeting.

It is the sole responsibility of the applicant to submit the renewal application at such time that it may be heard prior to the license expiration date.

- c. Incomplete Submission:  
Failure to submit complete applications, amendments, supplements or related material will result in the matter not being heard by the HCBBB at the next regular scheduled monthly meeting.
- d. Incomplete Materials:  
At the sole discretion of the HCBBB, incomplete materials and other supplementary information may be returned to the applicant. Information for HCBBB consideration should be submitted together in one complete package, and not turned in at separate dates and times. If the previously

incomplete materials are resubmitted in a timely and complete form, they may be considered at a subsequent meeting. It is the sole responsibility of the applicant to ensure that applications and other related materials are complete.

## 7. SECURITY

### a. Security Generally:

Within ninety (90) days of receipt of notice that an application has been conditionally approved, the applicant must satisfy the security requirements of the Bail Bond Act and these Rules.

All cash or cash equivalent security deposits must be made to the Hopkins County Treasurer. The conditionally approved applicant must provide a copy of the receipt for the security deposit to the Hopkins County Sheriff prior to executing a bail bond. The conditionally approved applicant who wishes to convey real property as the security deposit must show proof to the Hopkins County Sheriff that the original file-stamped Deed of Trust executing a bail bond. In no event may a combination of cash or cash equivalents and real property be used to meet the minimum security required under the Bail Bond Act.

### b. Cash and Cash Equivalent:

Cash equivalent shall be in the form of a cashier's check or certificate of deposit only. All certificates of deposit, pledged as security to write bail bonds, shall be styled, "(license holder name), payable to the Treasurer of Hopkins County, Texas" and shall be issued by a federally licensed, insured and regulated financial institution with an office located in Hopkins or a contiguous county. In addition, the certificate of deposit shall show the Hopkins County Treasurer's address as the address to which all renewal notices and/or other notification of changes shall be sent. The applicant or license holder shall provide their Tax ID Number or Social Security Number along with the certificate of deposit and shall be responsible for all tax consequences arising from the designee if there is a change in the issuing financial institution and/or the maturity date of each active certificate of deposit for all funds pledged.

License holders may make additional cash or cash equivalent deposits, of at least one thousand dollars (\$1,000.00) to the Hopkins County Treasurer. The license holder shall provide a copy of the Treasurer's receipt to the Hopkins County sheriff before any increase in the license holder's bonding limit is effective.

### c. Real Property:

An applicant who wishes to convey real property to the HCBBB as security for the writing of bail bonds in Hopkins County must submit to the HCBBB a

deed of trust, in the form approved by the Sheriff's Department, showing the HCBBB as trustee and beneficiary. Upon the HCBBB's vote to accept the real property, the applicant must sign the deed of trust agreement. The applicant is solely responsible for filing the deed of trust with the County Clerk of the County where the property is located and getting a file-stamped original to the Hopkins County Treasurer and a file-stamped copy to the Hopkins County Sheriff in the applicant's file by the end of the next business day following the HCBBB acceptance of the real property. The provisions of this rule are applicable to all real property pledged, whether pledged at the time of licensing or at some other time during the life of the license.

Any real property conveyed to the HCBBB as security to write bail bonds must be located within Texas, must be non-exempt, non-encumbered property owned by the applicant, must not be "homestead property" as defined by Texas statute and must be acceptable to the HCBBB in its sole discretion. In addition to the requirements of the Bail Bond Act, the applicant shall include with the application an abstract of title showing the absence of any liens against the property. The applicant shall include with the application proof of ownership of the real property from a title company licensed by the State of Texas. The applicant shall include with the application a separate appraisal of each parcel of real property. Each such appraisal must meet the requirements of 1704.155(2)(B) of the Bail Bond Act and must have been performed no more than 120 days prior to the submission of the application. The applicant shall include with the application a sworn affidavit by the applicant and his or her spouse that the property intended to be pledged is neither residential nor commercial homestead, and the affidavit shall set out the applicant's actual residence and business address that are claimed as homestead and that are different from the property intended to be pledged. The statutory minimum may be met by pledging more than one piece of real property. Any renewal application must include a current tax statement from all taxing entities showing the current tax district's value and that the taxes are paid in full, a current insurance policy endorsement showing it has been paid in full, and any and all other necessary documents as provided in these Procedures & Rules and the Bail Bond Act.

A license holder who has conveyed real property to the HCBBB shall annually by January 31 file with the HCBBB Secretary copies of paid tax receipts for each such parcel of real property from each jurisdiction levying real property taxes showing that all property taxed have been paid. Failure to provide copies of such receipts shall result in the deduction of the appraised value of the property from the license holder's security deposit. An applicant or license holder who has conveyed real property to the HCBBB shall maintain insurance covering all risks, peril, depending on the nature and use of the real property, in an amount not less than the full value amount of the value claimed of the "replacement cost" thereof as that term is defined in the

“Replacement cost Endorsement” to be attached thereto. The applicant or license holder shall furnish a statement at the time that real property is conveyed agreeing to keep all insurance coverage required by the HCBBB in full force and effect while the property remains as security for Hopkins County. The applicant or license holder shall furnish the policies of such insurance, together with receipts evidencing payment of the premiums, to the Sheriff’s Department by 4:00 p.m. local time by the tenth (10<sup>th</sup>) day of the month prior to when the application, renewal application or security deposit increase will be considered. Not less than fifteen (15) days prior to the expiration date of such policies, copies of paid renewals shall be delivered to the Sheriff’s Department. Such policies shall provide that not less than thirty (30) days written notice shall be given to the HCBBB before such policy may be cancelled or changed to reduce or cancel insurance provided therein. Subject to the provisions herein, such insurance shall be for the benefit of the HCBBB and for protection of its security interest in the real property. The license holder shall give immediate notice to the HCBBB if any improvements on the real property conveyed is damaged or destroyed, and the license holder shall, at his or her sole cost and expense, proceed with reasonable diligence to rebuild, replace or repair such improvements to substantially the same condition in which they existed prior to such damage or destruction, except the license holder shall not be required to rebuild, replace or repair buildings or improvements placed on the real property subsequent to the most recent issuance of a license by the HCBBB. If the license holder fails to maintain insurance, diligently repair or rebuild damaged property, or provide any notice or information required in this provision, the HCBBB may, in its sole discretion, remove the appraised value of the property from the license holder’s writing power immediately without further notice.

A license holder who has conveyed real property in trust to the HCBBB shall submit an affidavit agreeing to keep the property in compliance with all city, county, state and federal statutes, rules, ordinances and regulations. The affidavit will also state that should the license holder fail to bring the real property into compliance, after being given notice that the license holder agrees to pay all expenses incurred by the HCBBB or Hopkins County to return the real property to compliance. If the HCBBB or its agents receive notice that a pledged piece of real property is not in compliance with any law or regulation, the HCBBB or its designee may notify the license holder who pledged that real property. Within ten (10) days, the license holder shall (a) provide documentation that the real property has been brought into compliance or (b) provide documentation that the notice of violation has been appealed to a court of competent jurisdiction and the date a hearing is to be held or (c) provide documentation to the HCBBB that someone has been contracted to bring the real property into compliance. If the license holder is appealing the violation, the license holder shall provide notice that the HCBBB of the determination of the court or notice that the case has been continued or recessed with the reset date within five (5) days of the date the

determination is made or the hearing is continued or recessed. The real property will be brought into compliance within ten (10) days unless demonstrated to the HCBBB that the real property cannot be brought into compliance within that time and a reasonable time period has been offered and approved by the HCBBB. If the license holder fails to comply with the above, the HCBBB or its designee may bring the real property into compliance and notify the license holder of expenses incurred, or, in the alternative, the HCBBB may, in its sole discretion, remove the appraised value of the property from the license holder's writing power without further notice. If the license holder fails to pay the expense within ten (10) days of notification of the expenses incurred, the HCBBB may, after proper notice and hearing, vote to suspend or revoke the license for failure to pay the expenses.

If at any time a license holder wishes to increase his or her bonding limit by pledging additional real property as collateral, he or she must submit his or her intentions in writing with the required documentation as set out in Bail Bond Act and these Procedures & Rules, to the Hopkins County Sheriff.

#### **Sec. 1704.155. Real Property List**

**A list of nonexempt real property required under Section 107.154(b)(3) must, for each parcel listed, include:**

- 1. A legal description of the property that would be sufficient to convey the property by general warranty deed;**
- 2. A current statement from each taxing unit authorized to impose tax on the property showing that there is no outstanding tax lien against the property;**
- 3. At the option of the applicant, wither the properties:**
  - A. net value according to a current appraisal made by a real estate appraiser who is a member in good standing of a nationally recognized professional appraiser society or trade organization that has an established code of ethics, educational program, and professional certification program; or**
  - B. Value according to a statement from the county from the county's most recent certified tax appraisal roll;**
- 4. A statement by the applicant that, while the property remains in trust, the applicant:**
  - A. Agrees to pay the taxes on the property;**
  - B. Will not further encumber that property unless the applicant notifies that Board of the applicant's intent to encumber the property and the Board permits the encumbrance; and**
  - C. Agrees to maintain insurance on any improvements on the property against damage or destruction in**

**the full amount of the value claimed for the improvements;**

- 5. A statement of whether the applicant is married; and**
- 6. If the applicant is married, a sworn statement from the applicant's spouse agreeing to transfer to the board, as a part of the trust, any right, title, or interest that the spouse may have in the property.**

**Notes: The board has no authority to obtain its own appraisal of property. Walstad v. Dallas County Bail Bond Board, 882 S.W.2d 434 (Tex. App. – Dallas 1994)**

**The board may not require real estate to be located within that county. AG Op. DM-264 (1993)**

**The board may not refuse to accept real estate as collateral. AG Op. DM-108 (1992)**

**The board may not demand that a licensee provide to it a title policy and title opinion concerning real estate offered as collateral. AG Op. LO 97-102 (1997)**

## **8. WITHDRAWAL OR EXCHANGE OF SECURITY**

- a. The HCBBB or its designee must approve withdrawal or exchange of security. Requests for withdrawal or exchange of security, and any required documentation, must be received by the Hopkins County Sheriff's Department as early as possible, but at least seven (7) business days prior to when the matter will be considered by the HCBBB. The HCBBB shall state when an approved withdrawal or exchange shall be effective.
- b. The HCBBB shall approve a request for withdrawal of security in accordance with the Bail Bond Act 1704.210.
- c. If at any time a license holder wishes to replace real property conveyed in trust to the HCBBB with cash or a cash equivalent, the cash or a cash equivalent deposited must be equal to or greater than the accepted appraised value of the real property it will replace.

## **9. BONDSMAN REQUIREMENTS**

- a. "Bondsman" as used in these Procedures & Rules shall mean any person licensed to write bail bonds in Hopkins County (a "licensee" or "license holder") or an agent designated by a corporation in a license application.
- b. "Agent" as used in these Procedures & Rules shall mean any person hired by the bondsman who performs any of the following duties:
  1. Meets and negotiates in person, or communicates on any

- telecommunication line, with members of the public for the purpose of soliciting bail bonds; or
2. Receives money as a fee or money or real property as collateral for bail bonds; or
  3. Presents bail bonds to the Sheriff's Department for approval; or
  4. Interviews or takes information from persons who have been released from jail pursuant to a bail bond provided by the bondsman.
- c. A bondsman must take reasonable steps to insure that his or her employees and agents comply with the Texas Bail Bond Act and HCBBB Rules.
  - d. All bonds may be signed only by the individual surety or by the attorney-in-fact for the corporate surety. All execution powers of attorney attached to a corporate surety's bonds may be signed only by the attorney-in-fact for the corporate surety.
  - e. All bonds must include the bondsman's name and assumed name, if any; the bondsman's license number and expiration date; and the bondsman's telephone number. The information required by this rule may not be handwritten, but may be pre-printed on the bond, typed in or printed with a rubber stamp on each copy of the bond.
  - f. A bondsman presenting a surety company bond to the Sheriff's Department before processing the surety company bond. An attorney employed by the principal may present a surety company bond for acceptance by presenting his Texas Bar Card to the Hopkins County Sheriff's Department when processing the surety company bond.
  - g. A bondsman must return to the principal all fees and/or collateral tendered for the purpose of making or executing a bail bond when no bond is posted by the bondsman within twenty-four (24) hours of the fee being paid, unless otherwise agreed to by the parties to the bond or indemnity. The bondsman may retain a portion of the tendered fees to compensate for actual expenses incurred; but may not retain more than twenty-five dollars (\$25.00) per principal. If the fees or collateral cannot be returned because the principal cannot be located, the bondsman shall make a written record of his efforts to return the fees or collateral and such record shall be a permanent part of the principal's file.
  - h. When a bondsman has been discharged of his liability on a bail bond and there has been no forfeiture of that bail bond, the bondsman must return to the principal collateral being held by the bondsman to assure the appearance of the principal, less any reasonable expenses that have been incurred by the bondsman. Such return of collateral must be made within seventy-two (72) hours after the bondsman receives proof that he has been discharged from liability on the bail bond. A bondsman must deliver a written statement to every person who pays the bondsman any bail bond premium or other fee, or who delivers to the bondsman any collateral security, upon receipt of the fee

or security. The bondsman may, at his option, include that state in a written contact, receipt or other document. The statement must include:

1. All information required by the Bail Bond Act;
  2. The name, address and telephone number of the bondsman;
  3. The amount of the bail bond premium;
  4. A statement that no storage fee will be charged on collateral security delivered to the bondsman, or, the rate or amount of the fee if a storage fee will be charged;
  5. A statement that a fee has not been received on behalf of any attorney or law firm employed by the principal, or if any attorney's fee or Law firm fee has been received;
    - A. The name, address and telephone number of the attorney or law firm.
    - B. The amount of the fee; and
    - C. A statement that the bondsman does not recommend this attorney or any attorney or law firm, that it is against the law for a bail bondsman to recommend a particular attorney or law firm, and that the bondsman will turn over the fee to any attorney or law firm of the principal's choice.
  6. A statement that there are no other fees, or if there are other fees, specifically describing each fee, its amount, and the conditions under which part or all of it will be refunded;
  7. A statement that the bondsman will refund the bond premium within twenty-four (24) hours if the bail bond is not posted; and
  8. A statement that the bondsman will make no deduction from any bail bond premium refund, or if deduction will be made, how much they are. The deductions may not exceed twenty-five (\$25.00) per principal or actual expenses, whichever is less.
- i. Affidavits for discharge of liability pursuant to article 17.16, Texas Code of Criminal Procedure, may be presented for verification by the Sheriff's Department when the Hopkins County District or County Court are open. Only authorized Sheriff Department employees may execute a valid verification. It is the responsibility of the bondsman to present the affidavit to an authorized Sheriff Department employee.
- j. No bondsman man use, adapt, forward or cause to be adapted for use in his bail bond business a telephone number which has previously belonged to another bondsman in Hopkins County without prior written notice to the Hopkins County Sheriff. Any and all published or disseminated advertising or public notices of a bondsman must contain his HCBBB license number.

- k. A bondsman may not conduct his bail bond business under a name other than the name as it appears on his HCBBB license. Conducting bail bond business includes, but is not limited to, advertising and soliciting,
- l. A bondsman shall maintain a record of each Hopkins County bond at the bondsman's place of business in Hopkins County and the record(s) shall contain all of the information required by the Bail Bond Act. Each approved bondsman shall prominently display in a location visible to the public, the license issued by the HCBBB in his or her Hopkins County business location.
- m. No more than one bondsman may conduct bail bond business from a single address or location; except that a bondsman who will also be an insurance company's properly qualified corporate agent may conduct business in both capacities from the same address or location. A bondsman may not advertise or solicit bail bond business from any address from which a licensed attorney conducts any part of his practice.
- n. If a bondsman changes his or her business address or telephone number, or opens a sub-office, the bondsman must submit written notification to the HCBBB of the new location(s) or telephone number within seven (7) days of changing the office address or telephone number, or opening the sub-office. All rules applicable to the operation of a bondsman's primary location shall apply to the operation of any sub-office.
- o. No bondsman shall be allowed to post a bail bond on a single principal that, in the aggregate, exceeds that amount of money or real property than on deposit or pledged as security for the writing of bail bonds.
- p. No insurance company bondsman shall be allowed to post a bail bond on a single principal that exceeds the amount listed on the filed, original qualifying Power of Attorney currently with the HCBBB, unless and until a subsequent qualifying Power of Attorney is filed with the HCBBB, in a sufficient amount.
- q. When a bondsman or his agent accepts cash or anything of value as a free or collateral for the posting of a bail bond, and the bondsman arranges to have the bail bond posted by a second bondsman, the bondsman shall make full disclosure of such circumstances to the principal and to all to her persons who have contracted to pay for the bail bond. Such disclosure shall include the fact that a second bondsman has posted the bail bond; and he name, address and telephone number of the second bondsman.
- r. No bondsman shall charge a fee in an amount in excess of the bonds for making a bail bond.

- s. If the amount of bail in a case is reduced before a bond is posted, a bondsman may charge a fee only for the lower amount. If a fee for a higher bail had already been collected, the excess of such fee must be refunded to the principal.
- t. Each bondsman shall produce a list of all outstanding bonds in Hopkins County to the Hopkins County Sheriff on or before the 10<sup>th</sup> day of each month. This report shall include that name of the defendant and that amount of the bond posted. The list shall be acknowledged and signed by the bondsman.

**10. CONDUCT OF BAIL BOND BUSINESS**

- a. No bondsman or agent of a bondsman may solicit a bail bond inside a building where prisoners are confined, at the entrance to such a building, or in the parking lot of such a building. "Solicit" shall be defined to include the advertising of available bail related services, whether such solicitation is directly or indirectly with a prisoner, a person acting on behalf of a prisoner, or a member of the general public. Notwithstanding the above, upon request by a prisoner, a bondsman may meet with the requesting prisoner while incarcerated to discuss pre-trial release and matters necessarily related thereto.
- b. No bondsman or agent of a bondsman may display or place an advertisement for a bail bond company inside a building where prisoners are confined, at the entrance to such a building, or in the parking lot of such a building.
- c. No person may advertise that he or she may post a bond in Hopkins County unless that person holds a license issued by the HCBBB. All bail bond advertising, including business cards, concerning the posting of bail bonds in Hopkins County shall contain the true name of the individual surety or the agent for the corporate surety and shall contain the license number of that bondsman.
- d. A bondsman and/or bondsman employee must, when answering the bondsman's telephone, identify themselves by reciting the name of the bail bond business as it appears on the bondsman's HCBBB license. No phone may be forwarded to a person that is not licensed by the HCBBB, unless that person is an employee of a Hopkins County licensee and that person holds a bond card issued by the Hopkins County Sheriff. It shall be the responsibility of the Bondsman to insure that his or her employees observe the provision of this rule.
- e. Bondsman Conduct and Jail Procedure within the Hopkins County Jail Facility
  - 1. Contact by inmates to bondsmen can be initiated only through the signed selection list. After selection of a bondsman the inmate will contact the selected bondsman by phone from the jail.

2. At no time will a licensed bondsman or their agent have any phone contact with an inmate, within the jail, without recording capabilities being use.
3. Bondsman will not meet with inmates in the jail lobby, after an inmate is released.
4. Identification cards may only be displayed to a jailor for identification purposes when submitting a bond, otherwise at any other time all identifying information is not to be displayed in any area located in the jail facility.
5. No bonds will be taken between 1 p.m. and 4 p.m. on Wednesdays and Saturdays as these are designated visitation times.
6. Complaints against bondsmen will be submitted to the Hopkins County Bail Bond Association for peer review. If any further action is necessary, a written complaint will be forwarded to the Hopkins County Bail Bond Board for administrative purposes.

#### **11. EMPLOYEE REQUIREMENTS**

- a. An employee must not do anything in which a bondsman is prohibited from doing.
- b. No bondsman shall employ as an agent any person who, after August 27, 1973, commits or has committed a criminal offense for which they have been finally convicted, if such offense is classified as a felony or any misdemeanor offense involving moral turpitude. In the event the conviction was for a Class B or C misdemeanor offense, the Sheriff's Department may authorize employment of the agent if the conviction occurred more than ten (10) years prior to the request for authorization of employment.
- c. The Hopkins County Sheriff's Department may issue identification cards for an agent upon application by the bondsman and subject to qualification established by the Sheriff's Department.
- d. An Agent, as defined above, may not be employed by more than one (1) bondsman in Hopkins County. This rule shall not preclude an agent from working for a bondsman who is also an insurance company's properly qualified corporate agent. In such case, an agent may represent his employer in either of the employer's capacities.

#### **12. COMPLAINTS CONCERNING BONDSMEN AND THEIR EMPLOYEES**

- a. Pursuant to Section 1704.251 of the Bail Bond Act, if a sworn complaint

against a bondsman is submitted to the HCBBB it will first be screened to determine if it provides reasonable cause to believe that a violation of the Bail Bond Act, these Rules or other law has occurred. All sworn complaints received at least seven business days before a regularly scheduled HCBBB meeting shall be placed on the agenda for that meeting so that the HCBBB can make this determination.

**Sec. 1704.251. Investigation**

**(a) A board, on its own motion, may investigate an action of or a record maintained by a license holder that relates to a complaint that the license holder has violated this chapter.**

**(b) A board shall investigate an action of or a record maintained by a license holder if:**

**(1) The Board receives a sworn complaint providing reasonable cause to believe that a violation of this chapter has occurred; or**

**(2) A court requests an investigation.**

- b. A representative of the Criminal District Attorney's Office shall work with the Sheriff's Department to make a recommendation to the HCBBB on the issue of whether a reasonable cause has been stated. If the HCBBB determines that a sworn complaint does not provide reasonable cause as described above, the complainant and the Bondsman made the subject of the complaint shall be so notified in writing by the Sheriff's Department.
- c. If the HCBBB determines that a sworn complaint does state reasonable cause as described above, or if a court requests and investigates, the HCBBB shall direct such investigation into the complaint as it deems necessary. This may include affidavits, a request to produce evidence or a request that an agent of the HCBBB interview the bondsman or his agent(s). 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 bondsman must keep pursuant to the Bail Bond Act.
- d. Once the investigation is complete, a report shall be given to the HCBBB to decide if a hearing shall be conducted to suspend or revoke the bondsman's license. Both the complainant and the bondsman who was the subject of the complaint shall be sent written notice of the HCBBB's decision by the Sheriff's Department.
- e. 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 Bail Bond Act.

**Sec. 1704.254. Notice and Hearing**

**(a) Notice of a hearing to suspend or revoke a license under this**

**chapter must:**

- (1) Be sent by certified mail to the last known address of the license holder not later than the 11<sup>th</sup> day before that date of the hearing;**
  - (2) State each alleged violation of this chapter; and**
  - (3) Include a copy of any written complaint on which the hearing will be based.**
- (b) The hearing is limited to each alleged violation stated in the notice.**
- (c) During the hearing, the license holder:**
- (1) Is entitled to an opportunity to be heard; and**
  - (2) may present and cross-examine witnesses**
- (d) The hearing must be recorded. A license holder may obtain a copy of the record on request and payment of the reasonable costs of transcription.**
- f. If the complainant or requestor is a member of the Board, that member may not participate in any Board debate concerning the complaint or request, and may not vote on any action concerning the complaint or request.

### **13. FORFEITURES**

- a. A surety must satisfy a final judgment rendered by a court of competent jurisdiction.
- b. The security deposit, if cash or cash equivalent, shall be paid over to the County of Hopkins upon presentation to the County Treasurer of a certified copy of a final judgment. If the proceeds from the security deposit are insufficient to satisfy the judgment, any balance may be recovered out of other property of the defendant as in the case of ordinary executions. Any balance remaining after satisfaction of the judgment shall be deposited into the bail bond security fund to the credit of the bondsman as security for outstanding bonds.
- c. A bondsman may request in writing permission from the HCBBB to sell real property conveyed in trust to the HCBBB, as an alternative to foreclosure on the property for satisfaction of an unpaid final judgment. If the HCBBB allows this alternative, the written request form the bondsman shall be submitted to the Hopkins County Commissioner's Court for approval. Upon approval, the bondsman must acquire an "Assignment of Proceeds" form containing the HCBBB's consent for that bondsman to accept an offer, contingent on the stipulation that ALL proceeds will be given to the HCBBB. If the bondsman sells that real property, the bondsman must utilize the services of a title company licensed by the State of Texas.
- d. The HCBBB may vote to foreclose on any and all real property held in trust

for security in accordance with the provisions in the deed of trust or trust agreement to satisfy unpaid final judgment(s) upon presentation to the HCBBB of a certified copy of final judgment. The HCBBB or its designee shall immediately post the foreclosure(s), in accordance with statutes governing foreclosures of a deed of trust. Upon posting for foreclosure(s), the appraised value of the posted property or properties shall be deducted from the security deposit of the bondsman. The HCBBB may, at its sole discretion, proceed with either judicial or non-judicial foreclosure(s), unless otherwise prohibited by law. The proceeds of the foreclosure sale(s) shall first be applied to any expense of the sale(s), court costs and transport costs, and the proceeds shall be applied to the principal and interest owing on the judgment(s). If the proceeds from the foreclosure sale(s) are insufficient to satisfy the judgment(s), the HCBBB may direct that execution issue on the judgment(s) and any balance may be recovered out of other property of the defendant as in the case of ordinary executions. Proceeds remaining after satisfaction of the judgment(s) shall be paid to the Count Treasurer for deposit into the bail bond security fund to the credit of the bondsman as security for outstanding bonds.

#### **14. CESSATION OF BUSINESS**

- a. If a bondsman ceases to engage in the business of executing bail bond and/or ceases to maintain the license, he or his heirs or assigns must, within seventy-two (72) hours of the time when the bondsman ceases to engage in the bail bond business or ceases to maintain his or her license:
  1. Turn in his or her license and all ID cards issued to the bondsman and/or employee(s) of the bondsman to the Chairman of the HCBBB within seventy-two (72) hours of the time when the bondsman ceases to engage in the bail bond business or ceases to maintain the license;
  2. Provide to the Chairman of the HCBBB the name, Hopkins County street address and telephone number of the person who will maintain the records required to be kept under the Bail Bond Act;
  3. Provide to the Chairman of the HCBBB, the Hopkins County Criminal District Attorney and each clerk of each court in Hopkins County where the bondsman has executed a bail bond that has not been discharged, the name, Hopkins County street address and telephone number of the person who may be served with citation in suits relating to the bondsman's execution of bail bonds in Hopkins County.
  4. Produce a list of all outstanding bonds in Hopkins County to the Hopkins County Sheriff, the Criminal District Attorney and the Clerk of each Court. This list shall include the name of the Defendant and the amount of the bonds posted. The list shall be acknowledged and signed by the bondsman.

#### **15. APPEAL**

Appeal of an HCBBB action denying, revoking or suspending a license may be taken in a district court in Hopkins County, Texas within thirty (30) days after notice of the action is posted. The action of the Board shall become final if no appeal is taken within thirty (30) days. An appeal shall be by trial de novo. The decision of the Board shall remain in full force and effect during the pendency of the appeal. All appeals taken from the actions of the Board shall be against the Board and not the members individually.

**16. RULES CUMULATIVE**

These rules and regulations are cumulative of all statutes and statutory provision regulating bail bond sureties.

**17. EFFECTIVE DATE**

The Procedure and Rules herein are effective and supersede all previous Procedures, Rules and Regulations of the HCBBB upon proper posting pursuant to the Texas Government Code.