

SIXTEENTH JUDICIAL DISTRICT LOCAL RULES  
FOR LOCAL BONDSMEN

**FILED**

MAY 6 2011

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LAURA BOHLING *La*  
DEPUTY CLERK

**RULE 1**  
**GENERAL**

- (a) These Rules will be applicable in the General Sessions, Juvenile, Circuit, Chancery and Courts exercising criminal jurisdiction in the Sixteenth Judicial District.
- (b) "Court" is defined as the supervising Judge appointed by the presiding Judge of the Sixteenth Judicial District.
- (c) "Clerk" is defined as the Criminal Circuit Court Clerk for the county in which the bonding company or bonding person is making application.
- (d) Upon these Rules becoming effective **July 1, 2011, all prior Bonding Company Rules of the Sixteenth Judicial District are revoked.**

**RULE 2**  
**PETITIONS FOR APPROVAL**

- (a) Each person or company petitioning for permission to write bonds within the Sixteenth Judicial District must seek approval from the Court. No one may act as a surety for pay on a bail bond without first having been approved by the Court. Commercial bonding entities seeking Court approval to write bonds in the Sixteenth Judicial District must file a petition with the Criminal Court Clerk of the County in which the petitioner desires to write bonds.
- (b) Any bonding entity seeking to make bonds in any Circuit, General Sessions, Juvenile or Chancery Court in the Sixteenth Judicial District will be required to file a petition in the form established by these rules. Bail Bonding Companies seeking to make bonds must file a petition on the forms provided by the Court or the Clerk for this purpose.
- (c) The petition form will be uniform. The form will be available from the Clerk of the Court upon request. The petition form will be completed in detail and will be returned at the appropriate times to the Court. **INCOMPLETE OR LATE PETITIONS WILL NOT BE CONSIDERED FOR APPROVAL.**
- (d) Petitions are to be made and filed on a semiannual basis and will be filed on or before January 15 and July 15 of each year. **FAILURE TO COMPLY WITH THESE REQUIREMENTS WILL PREVENT APPROVAL. PETITIONS FILED AFTER THE CUTOFF DATE WILL NOT BE CONSIDERED. PETITIONS WHICH ARE IN ERROR ARE DEEMED TO NOT HAVE BEEN TIMELY FILED. ERRORS**

**DISCOVERED AFTER ACCEPTANCE BY THE CLERK WILL BE  
CONSIDERED NOT TIMELY FILED AND WILL RESULT IN REVOCATION.**

- (e) The petition must contain the following information under oath and penalty of perjury:
- (1) The business name under which the new company will be operating and the street address and the business telephone number for the bonding company office, which will be located in Rutherford or Cannon County;
  - (2) A copy of the business license issued for the bonding company;
  - (3) A copy of the bonding entity's agents school certificate (Annually with 1st semiannual report only);
  - (4) A copy of the Oral Fluid Testing drug screen of the owner, and each prospective agent, as required by the Court by the **PROVIDENCE PROBATION OFFICE**, and which has been performed within 48 hours of the date of filing the petition for permission to write bonds. Petitioners are responsible for cost of drug testing;
  - (5) A copy of all organizational documents (e.g., corporate charter, partnership agreement) and all other agreements or documents pertaining to the identity of the owners and interest holders in the said company, the distribution of profits from the said company, the source of all funds used to establish the company, and the names of those persons who will be personally liable for forfeiture judgments;
  - (6) List all disciplinary actions such as suspension or termination as a bonding person or agent;
  - (7) Identify the funds and source of said funds to be filed with the Clerk to establish the bonding capacity.
- (f) For all persons identified in paragraph (e) (4) above attach a sworn statement under oath and penalty of perjury from each individual stating the following:
- (1) A list of all prior criminal charges, whether resulting in a conviction or not, along with the disposition of the charge and the jurisdiction, as well as all other information required by T.C.A. 40-11-317;
  - (2) Describe all relations to any other owner, interest holder or agent of a bail bond company authorized to do business in Rutherford and Cannon County;
  - (3) A statement as to whether such people have ever been an owner, interest holder or agent of a bail bond company authorized to do business in Rutherford and Cannon County;

- (4) A statement as to whether such people are related, by blood or marriage, to any person who works for the Circuit Court Clerk and/or the Sheriff's Department and/or any Judge of Rutherford or Cannon County;
  - (5) A statement that the officers and/or owners of the bonding company and its proposed agents have read and are aware of the requirements of T.C.A. 40-11-301, et seq. and 40-11-401, et seq., pertaining to the Rules Governing Professional Bonds Persons and Requirements for Continuing Education, and the Rules of this Court governing bonding companies;
- (g) Applications for new bonding companies and/or new agents must comply with the following:
- (1) Owner of new bonding company **must** have 2 years experience with a bonding company prior to applying;
  - (2) Obtain TBI Form from the Rutherford County Criminal Court Clerk's office;
  - (3) Submit completed application to TBI for record check (at the expense of the bonding agency);
  - (4) New agents for existing bonding companies can only be added in **January and July** of each year, **NO EXCEPTIONS**;
  - (5) Regulations for new agents are same as section (e) paragraphs (3) and (4) and section (f);

**RULE 3**  
**COLLATERAL**

- (a) The required surety for bonding companies approved after July 1, 2011, is a minimum of a \$75,000.00 C.D., issued to the bonding company and the Circuit Court Clerk, requiring **both** signatures to redeem.
- (b) Any bonding company approved by the Court after July 1, 2011, may write total bonds in an amount equal to eight (8) times the amount of cash security posted with the Clerk, any bonding company approved prior to July 1, 2011, may write ten (10) times the amount of cash security posted with the Clerk. No company shall be permitted to write a bond for a defendant totaling a sum greater than which they have on deposit.
- (c) Collateral posted as security with the Clerk may not be withdrawn or applied to satisfy a forfeiture judgment.
- (d) Withdrawal of excessive surety and reducing bonding limits may be approved upon petitioning the Court. (one (1) time within a five (5) year period)

**RULE 4**  
**FORFEITURES**

- (a) A bonding company will not be allowed total forfeitures in the Criminal and General Sessions Courts of the Sixteenth Judicial District to exceed more than fifty (50) percent of the amount of collateral posted with the Clerk.
- (aa) Bonding companies approved before January 1, 2011 shall be in compliance with this Rule by September 1, 2011.
- (b) Bonding companies which have exceeded their forfeiture limit at the time of the monthly report prepared by the Clerk will be automatically suspended upon Order of the Court, be removed by the Clerk from the approved list, and the Clerk will immediately notify the Court, and the Sheriff. The bonding company will not be allowed to write any additional bail bonds until the forfeitures are again within the company's allowable limits and upon Order from the Court.
- (c) The Criminal Court Clerk's Office shall issue a written notice to a bail bond company when said company's liability reaches 90% of their ratio as set forth. If there is a discrepancy between the records of the bail bond company and the Criminal Court Clerk's office, the records of the Court will be presumed correct.
- (d) Any misrepresentation on any application form regarding financial worth, cases outstanding, forfeitures, dates of forfeitures, or the status on the payment of forfeitures will be cause for immediate removal from the approved bonding list of the Court in the Sixteenth Judicial District.
- (e) Upon any forfeiture becoming final, the professional bail bonding entity approved in this District will be required to pay the bond in full within ten (10) days of the date that the forfeiture becomes final without further action of the Court. Should a professional bail bonding company entity refuse or neglect to pay the forfeiture in full within ten (10) days, it will be barred from making further bonds and the Court will issue the appropriate judgment to collect a said outstanding bond as provided by law or to liquidate the Certificate of Deposit to satisfy the forfeited bond.
- (f) A one (1) time extension of sixty (60) days, to bring in a defendant, may be given to a bonding person **prior** to forfeiture becoming final. No extension will be given after final forfeiture.
- (g) Upon a forfeiture becoming final and timely paid, the bonding entity may apply for the return of bond proceeds if the defendant is incarcerated within Tennessee within thirty (30) days of the forfeiture becoming final.

- (h) Pursuant to T.C.A. 40-11-125, any court withholding, withdrawing or suspending a bonding person or other surety under this section will notify the bonding person in writing, mailed to the address provided on the application, of the action taken, accompanied by a copy of the charges resulting in the court's action. If, within twenty (20) days after notice, the bail bonding person or surety files a written answer denying the charges or setting forth extenuating circumstances, the Court will call a hearing within a reasonable time for the purpose of taking testimony and evidence on any issues of facts made by the charges and answer. The Court will give notice to such bail bonding person of the time and place of the hearing. The parties will have the right to produce witnesses, and to appear personally with or without representation by counsel. If, upon such hearing, the Court determines that the bail bonding person is guilty as alleged in the charges, the Court will thereupon withhold, withdraw or suspend the bonding person for a definite period of time to be fixed in the order of suspension.

**RULE 5**  
**COMPANY CHANGES**

- (a) Any changes to a bonding company's address or telephone number from that noted in the original petition must be sent in writing to the Clerk.
- (b) Any changes to a bonding company's name, ownership, or agents as submitted in the original petition must be submitted in writing and approved by order of the Court.  
**MODIFICATIONS CAN ONLY BE MADE IN JANUARY AND JULY.**
- (c) New agents for bonding companies will only be added in **JANUARY AND JULY** of each year, **NO EXCEPTIONS.**
- (d) Any material changes to the financial statements submitted to the Court must be corrected and filed with the Clerk.
- (e) Any changes in the employment status of agents must be submitted in writing within ten (10) days of said change and be approved by the Court.

**RULE 6**  
**ACTIVITIES OF BAIL AGENTS**

**As provided by T.C.A. 40-11-126, "Unprofessional conduct" defined for bondsmen and surety agents.**

- (a) In addition to the criminal sanctions elsewhere provided by law, the following is deemed unprofessional conduct and no bondsman or surety agent shall:

- (1) Suggest or advise the employment of or name for employment any particular attorney to represent the bondsman's principal;
- (2) Pay a fee or rebate or give or promise anything of value to a any clerk of court, jailer, police officer, peace officer, committing magistrate or any other person who has power to arrest or hold in custody, or to any public official or public employee in order to secure a settlement, compromise, remission or reduction of the amount of any bail bond or the forfeiture of the bail bond;
- (3) Pay a fee or rebate or give anything of value to an attorney in bail bond matters except in defense of any action on a bond;
- (4) Pay a fee or rebate or give or promise anything of value to the principal or anyone in the principal's behalf;
- (5) Participate in the capacity of an attorney at a trial or hearing of one on whose bond the person is a surety;
- (6) Solicit business directly or indirectly, by active or passive means, or engage in any other conduct which may reasonably be construed as intended for the purpose of solicitation of business in any place where prisoners are confined or in any place immediately surrounding where prisoners are confined;
- (7) Surrender a principal or ask any court to be relieved from a bail bond arbitrarily or without good cause;
- (8) Accept anything of value from a principal except the premium; provided, that the bondsman shall be permitted to accept collateral security or other indemnity from the principal which shall be returned upon final termination of liability on the bond. The collateral security or other indemnity required by the bondsman must be reasonable in relation to the amount of the bond. When a bail bondsman accepts collateral, the bondsman shall give a written receipt for the collateral, and this receipt shall give in detail a full description of the collateral received and the terms of redemption; or
- (9) Engage in the business of a professional bondsman or surety without maintaining a permanent business office, business telephone and appropriate signage indicating that the office is a professional bail bond business.
- (10) All agents or employees of a bonding company will conduct themselves in accordance with all rules and orders of the Sheriffs of Rutherford and Cannon County while performing required duties within such buildings. Penalty for first violation of this provision is a suspension of not less than six (6) months and the offender must repetition the Court for reinstatement. Penalty for a reoccurring violation of this provision is termination of bonding privileges.

- (b) The Clerk shall randomly draw the names of no fewer than six (6) bondsmen or agents, and no more than fifteen (15) names of bondsmen or agents, to be drug tested. The names will be drawn on a monthly basis. Selected bondsmen or agents will be immediately notified by the Clerk by telephone. The date and time of call will be documented. **Oral Fluid Drug Testing will be taken at the Murfreesboro office of Providence Probation.** It is the responsibility of the bondsmen or agents to submit to the drug screen within 48 hours of the time of notification. It is the duty of the bondsmen or agents to insure that the final result of the test be filed with the Clerk's Office within five Judicial days of the initial notification to the bondsmen or agent. **There will be no further contact or reminder of the bondsman or agent by the Clerk once notified that individual has been selected.**
- (1) Violation of these procedures by any bondsman will constitute immediate suspension. Any issues or irregularities should be filed in writing with the Clerk, and will be heard by the Presiding Judge, or a Judge designated by the Presiding Judge, or, at the direction of the Presiding Judge, a multi-judge Panel.
- (2) Failure of drug test for any illegal substance will result in suspension pending a show cause hearing before the supervising Court. Suspension for first failed screen will be a minimum of six (6) months, or until agent has completed a drug treatment program. Said agent must petition the Court for reinstatement. The credentials and/or qualifications of any treatment program will be submitted to the Presiding Judge or his designee for approval. An agent testing positive for any illegal substance on a second drug screen forfeits all bond writing privileges and may not have bond writing privileges reinstated.
- (c) A bonding company will notify the defendant/principal of each court appearance. A professional bail bonding company representative will be readily available as needed by a Court whenever a defendant fails to appear at the call of the docket.
- (d) Each agent will be responsible for providing a copy of their certificate of compliance of the eight (8) hour continuing education credits required during each twelve-month period in compliance with T.C.A. 40-11-401, to the Clerk annually.
- (e) A bonding person is not released from responsibility on a bond by returning a defendant to state custody. Release from a bond is **only obtained by Court Order.**
- (f) Agencies found advertising under company names which have not been approved by the Court will be considered false advertisement and will be summarily suspended.

**RULE 7**  
**PREMIUMS**

- (a) As provided by T.C.A. 40-11-126, no bonding person will accept anything of value or any service or favor from a principal or anyone acting on their behalf except the authorized premium and initiation fee as set out in T.C.A. 40-11-316 and as described in the bond contract and the \$12.00 bail tax as provided in T.C.A. 67-4-801.
- (b) All funds or negotiable instruments accepted in payment or in satisfaction of the premium and the initiation fee will be recorded and itemized by the bonding company.
- (c) A copy of said record documenting the premium and initiation fee received will be provided to the defendant, or the agent acting in the defendant's behalf, and will be maintained as a part of the ordinary daily business of said company.
- (d) If funds or negotiable instruments are accepted as collateral, the bonding company will
  - (1) deposit such collateral into a separate trust account pending its redemption;
  - (2) will identify the account or principal to which the collateral applies, and;
  - (3) will provide the person providing the collateral with the identity of the institution in which the collateral is held.
- (e) In the event that a bail bonding company receives funds for a premium or initiation fee and elects not to post the bond for the defendant/principal then any funds received will be immediately returned to the defendant or the person acting on the defendant's behalf.
- (f) Every bonding person and/or agent must use a duplicate receipt book to record all payments for premiums. A copy of the receipt must be given to the defendant or the person acting on their behalf. Receipts must include:
  - (1) Specific description of all property, including cash or checks, received from the defendant or someone acting on the defendant's behalf, and
  - (2) Signatures of the defendant or the person acting on his/her behalf tendering the said funds.
- (g) Bonding companies are prohibited from making credit bonds on cases where the total bonds for any defendant exceed \$25,000.00. No funds or partial payment in satisfaction of the premium may be received following release of the defendant/principal from custody for bonds for any single defendant in excess of \$25,000, except as authorized by T.C.A. 40-11-316 or other applicable law.



- (h) No bond may be secured, guaranteed, or otherwise indemnified by a contract which purports to be a promissory note, indemnification contract, hold harmless agreement, or guaranty from a company, a bonding person not approved as a bonding company.

**RULE 8**  
**REPORTS AND REQUIRED RECORDS**

- (a) It will be the responsibility of the bonding company that all bonds will be fully completed upon the release from custody of the defendant/principal. Bail bond contracts will:
  - (1) Have the name, address and zip code number of the defendant legibly printed;
  - (2) Be signed by the agent making said bond;
  - (3) Have the names of the bonding company boldly and legibly stamped or printed;
  - (4) Identify the property used to pay the premium and initiation fee as well as any other property received as collateral for said bonds, and
  - (5) Have a copy of a photo identification of all persons (except the defendant/principal) delivering such premiums, fees or collateral to the agent if the bond is \$25,000 or above.
  
- (b) Any bonding company authorized by the Court will file with the Clerk, with a copy to the Court, a semiannual financial report pursuant to T.C.A. 40-11-303. Such report will include, but not be limited to, a listing of:
  - (1) All current, active qualified bonding agents approved for said company;
  - (2) Any outstanding civil performance or cost bonds;
  - (3) All persons having financial or managerial interest in a bonding company must be identified annually; and
  - (4) A certificate of compliance for the continuing education credits for each agent (Annually with 1st semiannual report)
  
- (c) Upon the failure of any bonding entity to file this report, or any other record or document required by statute or by local rule, the Clerk will notify the Court, who will suspend and remove the company from the approved list. The Court will notify the bonding person in writing of the action taken, accompanied by a copy of the charges resulting in the Court's action. If, within twenty (20) days after notice, the bail bonding person or surety files a written answer denying the charges or setting forth extenuating circumstances, the Court will call a hearing within a reasonable time for the purpose of taking testimony and

evidence on any issues of facts made by the charges and answer. The Court will give notice to such bail bondsmen, or to the insurer represented by the bonding person, of the time and place of the hearing. The parties will have the right to produce witnesses, and to appear personally with or without representation by counsel. If, upon such hearing, the Court determines that the bail bonding person failed to comply with these rules, the Court will thereupon withhold, withdraw or suspend the bonding person from the approved list, or suspend the bonding person for a definite period of time to be fixed in the Order of Suspension. The Clerk and the Sheriff of the county and the offending bonding person stricken from the approved list will be notified of the action of the Court. Any bonding entity being suspended or revoked will have the right of appeal to the next highest Court having criminal jurisdiction.

- (d) In addition to the reports required under Rule 8 sections (b) through (f), every professional bail bonding entity writing bonds in the Sixteenth Judicial District will file a monthly report with the Clerk containing the following information:
  - (1) All outstanding bonds and their amounts ending with month of report;
  - (2) All forfeitures and their amounts;
  - (3) All disciplinary actions such as suspension or termination as a bonding person or agent, and;
- (e) The monthly reports required in Section (d) above will be filed with the Clerk no later than the tenth (10th) day of each month. The reports will be sworn to and notarized.
- (f) Failure to file a monthly report will result in immediate suspension for a period of 30 days on first violation, 60 days on second violation, additional violations will require petitioning the Court.

**RULE 9**  
**SUSPENSION OF BONDING COMPANY OR AGENTS**

- (a) Every bonding company acts as an agent of the Court and the conduct of the bonding company constitutes an integral part of the operation of the Court. The Court may impose any limits or conditions necessary to insure the professional standing and reliability of the bonding company. Such measures, if any, will be made in the public interest to avoid a conflict of interest or an appearance of impropriety on the part of the bonding company. Pursuant to the provisions of T.C.A. 40-11-125 and T.C.A. 40-11-126 the Court may take appropriate disciplinary action including the withholding, suspension or termination of the approval to do business if it appears to the Court that it is in the public interest to take such action.

- (b) Pursuant to the provisions of T.C.A. 40-11-125 and T.C.A. 40-11-126 the Court may take appropriate disciplinary action including the withholding, suspension or termination of approval for a bonding person to act as agent for an approved bonding company, if the agent:
- (1) Has been convicted of a crime of dishonesty, any felony or any alcohol or drug related offense;
  - (2) Fails to submit for a drug screen as requested by the court;
  - (3) Tests positive for any illegal substance by a drug screen requested by the Court;
  - (4) Has a final judgment of forfeiture entered against the bonding company that remains unsatisfied which the agent authorized;
  - (5) Has failed to comply with any local rules; or
  - (6) Is guilty of unprofessional conduct that includes, but is not limited to:
    - (a) Loitering about the jail or court premises and within the prohibited areas to Solicit business;
    - (b) Suggesting or advising the employment of, or otherwise referring any particular attorney to represent the defendant;
    - (c) Paying a fee or giving or promising anything of value to any Clerk of Court, Jailer, Police Officer, Peace Officer, Committing Magistrate, or any other person who has the power to arrest or hold in custody, or to any public official or public employee to secure a bond, and/or a settlement, compromise, remission or reduction of the amount of any bail bond or the forfeiture thereof;
    - (d) Paying a fee or rebate or giving anything of value to an attorney in bail bond matters, except in the legal representation of any action pertaining to the bail bond company or action;
    - (e) Surrendering a principal without good cause;
    - (f) Accepting anything of value from a principal except the premium provided, however, that the bonding person will be allowed to collect collateral, security or other indemnity from the principal that will be returned upon final termination of liability on the bond where such collateral, security or other indemnity required by the bonding person is reasonable in relation to the amount of the bond and where such collateral, security or other indemnity required by the bonding person is reasonable in

relation to the amount of the bond and where the said bonding person accepting such collateral delivers a written receipt for the same which receipt describes in detail the collateral received and the term of redemption;

- (g) Accepts anything of value as payment for a premium or collateral after the defendant/principal is released from custody, except as authorized under Rule 7(d).

**RULE 10**  
**INDIVIDUAL BONDS**

- (a) Any individual who desires to post a real property bond pursuant to T.C.A. 40-11-122 will submit a current title opinion for said real property reflecting the encumbrances thereon. The appraised value/equity of the property owner providing said surety must equal one and one-half times the amount of the bond. The property owner providing said surety must comply with all regulations as set forth by the Clerk.
- (b) Any individual who desires to deposit a cash bond pursuant to T.C.A. 40-11-118 will be notified by the Sheriff's Department that such cash deposit will be returned subject to any fines, court costs or restitution as ordered by the Court.

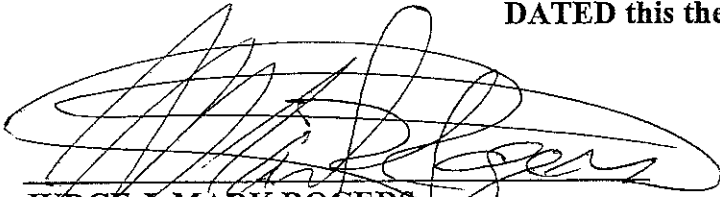
**RULE 11**  
**COMPLAINTS AGAINST BONDSMAN**

- (a) Complaints against bonding companies and/or agents must be in writing, signed and notarized and filed in the Criminal Court Clerk's office. Said complaint must include address and phone numbers of complainant. The presiding Judge will review said complaint and determine just cause for a hearing. If a hearing is to be held all parties will be notified in writing by the Court or Clerk of the hearing date.

**RULE 12**  
**AMENDMENTS**

These rules may be amended from time to time. Upon amendment, the Clerk will notify all approved bonding companies in Rutherford and Cannon Counties by certified mail, return receipt requested, or by personal delivery with a signed receipt for the same. Upon receipt of notice, all bonding companies will comply with said amendments.

DATED this the \_\_\_\_\_ day of \_\_\_\_\_, 2011

  
\_\_\_\_\_  
JUDGE J. MARK ROGERS

JUDGE DON R. ASH

  
\_\_\_\_\_  
JUDGE DAVID BRAGG

  
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JUDGE ROYCE TAYLOR

  
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CHANCELLOR ROBERT E. CORLEW, III

  
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JUDGE DAVID LOUGHRY

  
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JUDGE BEN HALL MCFARLIN, JR.

  
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JUDGE LARRY BRANDON

  
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JUDGE SUSAN MELTON

  
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JUDGE KETA BARNES

  
\_\_\_\_\_  
JUDGE DONNA SCOTT

DAVENPORT