

## **New Mexico Bail Laws**

### **1. Applicable Statutes.**

The bail bond industry is heavily regulated in the state of New Mexico. Licensing requirements for agents, in particular, are covered by extensive statutory regulations.

- A. NEW MEXICO STATUTES 1978, ANNOTATED CHAPTER 59A. Insurance Code ARTICLE 51. Bail Bondsmen Licensing 59A-51-2 – 51-19.
- B. NEW MEXICO STATUTES 1978, ANNOTATED CHAPTER 31. Criminal Procedure ARTICLE 3. Bail
- C. MICHIE'S NEW MEXICO STATUTES ANNOTATED Rules of Criminal Procedure for the District Courts ARTICLE 4 Release Provisions RULE 5-406.

Bail bonds; exoneration; forfeiture.

### **2. Licensing Requirements for Agents.**

- A. NEW MEXICO STATUTES 1978, ANNOTATED CHAPTER 59A. Insurance Code ARTICLE 11. Licensing Procedures, Agents, Solicitors, Brokers, Adjusters and Others

*59A-11-1 Scope of article.*

- This article provides information on procedures in licensing bail bondsmen and solicitors;

*59A-11-2 Application for license; individual.*

- Where a license is required the application shall be signed by the applicant, under oath if required by the form, and by or on behalf of the proposed principal where expressly required in the form.
- The application form may require information about applicant as to:
  1. name, date of birth, social security number, residence and business address if applicable;
  2. personal history, business experience in general;
  3. experience or special training or education in the kind of business to be transacted under the license applied for;
  4. previous licensing;

5. type of license applied for and kinds of insurance or transactions to be covered thereby;
  6. proof of applicant's identity; and
  7. such other pertinent information and matters as the superintendent may reasonably require.
- Application for license as bail bondsman shall be accompanied by appointment of the applicant by the proposed principal as solicitor or agent, as the case may be, subject to issuance of the license applied for.
  - In all such appointments the principal or principal's representative if so required by the superintendent shall certify in writing as to his knowledge of the applicant, as to applicant's residence, experience had or special training received or to be given as to business to be transacted under the license, applicant's business and personal reputation, whether applicant is trustworthy and worthy of licensing, and whether satisfied that applicant intends in good faith to engage in the business to be covered by the license, and appointment of applicant is not to enable applicant to evade the intent or spirit of any controlled business, anti-rebate or anti-discrimination law or other law.
  - The application shall be accompanied by the applicable license application filing fee specified in (R. bail bondsmen –
    1. filing application for original license as bail bondsman or solicitor, and issuance of license, if issued ..... \$30.00
    2. examination for license conducted directly by superintendent, each instance of examination ..... \$50.00
    3. continuation of appointment, each year ..... \$20.00) by bond where expressly required under other provisions of the Insurance Code, and by the fee specified in such fee schedule for any examination required under the Insurance Code to be taken and passed by the applicant prior to licensing.

B. NEW MEXICO STATUTES 1978, ANNOTATED CHAPTER 59A. Insurance Code ARTICLE 51. Bail Bondsmen Licensing

*59A-51-2 Definitions.*

- "bail bondsman" means a limited surety agent or a property bondsman as hereafter defined:
- "insurer" means any surety insurer which is authorized to transact surety business in this state;

- "limited surety agent" means any individual appointed by an insurer by power of attorney to execute or countersign bail bonds in connection with judicial proceedings and [who] receives or is promised money or other things of value therefor;
- "property bondsman" means any person who pledges United States currency, United States postal money orders or cashier's checks or other property as security or surety for a bail bond in connection with a judicial proceeding and receives or is promised therefor money or other things of value; and
- "solicitor" means a person employed by a bail bondsman for the purpose of assisting the bail bondsman in presenting the defendant in court when required, or to assist in the apprehension and surrender of defendant to the court or keeping the defendant under necessary surveillance, and to solicit bail bond business, to sign property bonds and assist in other conduct of the business all as authorized by the employer bail bondsman. This does not affect the right of a bail bondsman to hire counsel or to ask assistance of law enforcement officers.

*59A-51-4 Qualifications for license.*

- Applicants for license as bail bondsman or solicitor pursuant to the provisions of Chapter 59A, Article 51 NMSA 1978 must not be law enforcement, adjudication or prosecution officials or their employees, attorneys-at-law, officials authorized to admit to bail, or state or county officers, and must be qualified as follows:
  - A. is an individual not less than eighteen years of age;
  - B. is a citizen of the United States;
  - C. if for license as bondsman must take and pass to the superintendent's satisfaction a written examination testing his knowledge and competence to engage in the bail bondsman business;
  - D. is of good personal and business reputation;
  - E. if to act as a property bondsman, must be financially responsible and provide the surety bond or deposit in lieu thereof as required in accordance with Section 59A-51-8 NMSA 1978;
  - F. if to act as a limited surety agent, must be appointed by an authorized surety insurer, subject to issuance of a license, and meet all applicable qualifications as for licensing as an agent of an insurer as stated in Section 59A-12-12 NMSA 1978; and
  - G. if for license as a solicitor, must have been so appointed by a licensed bail bondsman subject to issuance of the solicitor license.

*59A-51-4.1 Educational requirements.*

- In order to be eligible to take the examination required to be licensed as a bail bondsman, the applicant shall complete not less than thirty clock hours of formal classroom education in subjects pertinent to the duties and responsibilities of a bail bondsman, including ethics and all laws and rules related to the bail bond business. In addition, the applicant shall complete one hundred twenty hours of on-the-job training under the direct supervision of a sponsoring bail bondsman who shall certify in writing that he has taught the applicant the subjects pertinent to the duties and responsibilities of a bail bondsman, including ethics and all laws and rules related to the bail bond business, and that the applicant is prepared to take the examination. The scope of the examination shall be as broad as the bail bond business.
- Instead of the education requirement in Subsection A of this section, an applicant may become eligible to take the examination required to be licensed as a bail bondsman by apprenticing for a minimum of six months with a sponsoring bail bondsman. The sponsoring bail bondsman shall certify in writing that he has taught the applicant the subjects pertinent to the duties and responsibilities of a bail bondsman, including ethics and all laws and rules related to the bail bond business, and that the applicant is prepared to take the examination. The scope of the examination shall be as broad as the bail bond business.
- In order to be eligible to take the examination required to be licensed as a solicitor, each person shall complete not less than ten clock hours of formal classroom education in subjects pertinent to the duties and responsibilities of a solicitor, including ethics and all laws and rules related to the bail bond business. In addition, the applicant for a solicitor's license shall complete thirty hours of on-the-job training under the direct supervision of a sponsoring bail bondsman who shall certify in writing that he has taught the applicant the subjects pertinent to the duties and responsibilities of a solicitor, including ethics and all laws and rules related to the bail bond business, and that the applicant is prepared to take the examination. The scope of the examination shall be as broad as the bail bond business.
- Prior to renewal of a bail bondsman's or solicitor's license, a licensee shall complete annually not less than fifteen clock hours of continuing education in subjects pertinent to the duties and responsibilities of a bail bondsman or solicitor, including ethics and all laws and rules related to the bail bond business. Such continuing education shall not include a written or oral examination.
- A provider approved by the superintendent to offer prelicensing classroom education for bail bondsmen or continuing education classes for bail bondsmen and solicitors shall be required to offer such classes in at least two

geographic areas of the state until such time as the superintendent determines that sufficient classes are available statewide.

- It is a violation of the New Mexico Insurance Code [this chapter, except Articles 16A, 23A, 23B, 24A, and Section 59A-33-14 NMSA 1978] for a person to falsely represent to the superintendent that the education requirements of this section have been complied with.
- The superintendent shall adopt and promulgate such rules as are necessary for the effective administration of this section.

*59A-51-5 Application for license.*

- An individual desiring to be licensed as bail bondsman or solicitor under Chapter 59A, Article 51 NMSA 1978 shall file with the superintendent written application on a form as prescribed and furnished by the superintendent, together with application for qualifying examination if for bail bondsman license.
- With application for license to act as property bondsman the applicant shall file with the superintendent his detailed financial statement under oath and a schedule of charges and the rating plan proposed to be used in writing bail bonds. The schedule shall conform to rules and regulations promulgated by the superintendent.
- Application for a solicitor's license must be endorsed by the appointing bail bondsman, who shall therein obligate himself to supervise the solicitor's activities in the bondsman's behalf.
- The application shall be accompanied by a recent credential-sized full-face photograph of the applicant together with such additional proof of identity as the superintendent may reasonably require.
- As part of an application for a license, a nonresident applicant shall appoint the superintendent, on a form prescribed and furnished by the superintendent, as agent on whom may be served all legal process issued by a court in this state in any action involving the nonresident licensee. The appointment is irrevocable and continues for so long as an action involving the nonresident licensee could arise. Duplicate copies of process shall be served upon the superintendent or other person in apparent charge of the insurance division during the superintendent's absence, accompanied by payment of the process service fee specified in Section 59A-6-1 NMSA 1978. Upon service the superintendent shall promptly forward a copy by certified mail, return receipt requested, to the nonresident licensee at his last address of record with the superintendent. Process served and copy forward as so provided constitutes personal service upon the nonresident licensee.
- A nonresident licensee shall also file with the superintendent a written agreement to appear before the superintendent pursuant to a notice of hearing, show cause order or subpoena issued by the superintendent and deposited, postage paid, by certified mail in a letter depository of the United Allegheny Casualty - International Fidelity - Associated Bond

States post office, addressed to the nonresident licensee at his last address of record with the superintendent, and that upon failure of the nonresident licensee to appear, the nonresident licensee consents to subsequent suspension, revocation or refusal of the superintendent to continue the license.

*59A-51-7 Examination for license.*

- Examination of an applicant for license as bail bondsman shall be given and conducted by or under authorization of the superintendent and shall otherwise be subject to the provisions governing examination of applicants for license set forth in Article 11 [Chapter 59A, Article 11 NMSA 1978] (licensing procedures) of the Insurance Code.

*59A-51-10 Duration, continuation, expiration of license.*

- Every bail bondsman and solicitor license issued under this article shall be dated and become effective as of date of issue, and shall continue in force for so long as the licensee remains qualified therefor, unless terminated by the licensee or suspended or revoked, subject to continuation annually by payment in advance of the continuation fee specified therefor in Section 101 [59A-6-1 NMSA 1978] (fee schedule) of the Insurance Code. Unless so continued the license shall expire as of midnight on April 30th of the current license effective period.
- Prior to continuation of license of a property bondsman the superintendent may require filing of the licensee's financial statement as of the end of the calendar year next preceding, and may require of all licensees such information in writing concerning operations under the license during the next preceding calendar year as the superintendent deems advisable.

*59A-51-11 Return of license; property bondsman notice to courts.*

- Every license issued under the article is at all times the property of the state of New Mexico, and upon any expiration, termination, suspension or revocation thereof the licensee shall promptly return the license to the superintendent for holding (in case of suspension) or cancellation.
- Any property bondsman who discontinues writing bail bonds during the period for which he is licensed shall notify the clerks of the courts with whom he is registered of such discontinuance. Within thirty (30) days after such discontinuance the licensee shall return his license to the superintendent for cancellation.

*59A-51-14 Denial, suspension, revocation or refusal to continue license.*

- The superintendent may deny, suspend, revoke or refuse to continue any license issued under this article for any of the following causes or for any violation of the laws of this state relating to bail or the bail bond business:

1. for any cause for which issuance of the license could have been refused had it then existed and been known to the superintendent;
  2. material misstatement, misrepresentation or fraud in obtaining the license;
  3. misappropriation, conversion or unlawful withholding of money belonging to insurers or others and received in the conduct of business under the license;
  4. fraudulent or dishonest practices in the conduct of business under the license;
  5. wilful failure to comply with, or wilful violation of any proper order, rule or regulation of the superintendent;
  6. failure or refusal, upon demand, to pay over to any insurer he represented, any money coming into his hands belonging to the insurer;
  7. wilful failure to return collateral security to the principal when the principal is entitled thereto;
  8. for knowingly having in his employ a person whose bail bond business license has been revoked, suspended or denied in this or any other state; or
  9. wilful failure, neglect or refusal to supervise a solicitor's activities in his behalf.
- When, in the judgment of the superintendent, the licensee in the conduct of affairs under the license has demonstrated incompetency, untrustworthiness, conduct or practices rendering him unfit to engage in the bail bond business, or making his continuance in such business detrimental to the public interest, or that he is no longer in good faith engaged in the bail bond business, or that he is guilty of rebating, or offering to rebate his commissions in the case of limited surety agents or premiums in the case of professional bondsmen, and for such reasons is found by the superintendent to be a source of detriment, injury or loss to the public, he shall revoke or suspend the license.
  - In case of the suspension or revocation of license of any bail bondsman, the license of any or all other bail bondsmen who are members of the same agency and any or all solicitors employed by such agency, who knowingly were parties to the act which formed the ground for the suspension or revocation shall likewise be suspended or revoked, except for the purpose of completing pending matters, and those persons who knowingly were parties to the act are prohibited from being licensed as a member of or bail bondsman or solicitor for some other agency.

- No license under this article shall be issued, renewed or permitted to exist when the same is used directly or indirectly to circumvent the provisions of this article.
- The Uniform Licensing Act [61-1-1 to 61-1-31 NMSA 1978] shall apply with regard to the procedure for denial, revocation, suspension or refusal to continue a license pursuant to this article.

*59A-51-15 Deals with the duration of a suspension; relicensing after revocation.*

*59A-51-16 Administrative fine in lieu of revocation/probation..*

- The superintendent may, in his discretion, in lieu of license suspension, revocation or refusal, and except on a second offense, impose upon the licensee an administrative penalty of one hundred dollars (\$100), or, if the superintendent has found wilful misconduct or wilful violation on the part of the licensee, an administrative penalty of five hundred dollars (\$500).
- The superintendent may allow the licensee a reasonable period, not to exceed thirty (30) days, within which to pay to superintendent the amount of the penalty so imposed. If the licensee fails to pay the penalty in its entirety to the superintendent within the period so allowed, the license of the licensee shall stand suspended or revoked, or continuation refused, as the case may be, upon expiration of such period and without any further proceedings.

*59A-51-17 Probation.*

- If the superintendent finds that one or more causes exist for the suspension, revocation or refusal to continue any license issued under this article the superintendent may, in his discretion, in lieu of such suspension, revocation or refusal, or in connection with any administrative monetary penalty imposed, place the offending licensee on probation for a period not to exceed two (2) years, as specified by the superintendent in his order.

*59A-51-18 Penalty.*

- Any person violating any of the provisions of this article shall upon conviction thereof be fined not more than one thousand dollars (\$1,000).

*59A-51-19 Other provisions applicable.*

- In addition to other provisions of the Insurance Code [this chapter, except Articles 16A, 23A, 23B, and 24A and Section 59A-33-14 NMSA 1978] applicable as to licensing and licensees as referred to in Chapter 59A, Article 51 NMSA 1978, the following provisions of the Insurance Code shall also apply, subject to the provisions of that article and to extent reasonably so applicable, as though the bail bond business was also an insurance business and licensees were also agents or representatives:

A. Chapter 59A, Article 1 NMSA 1978;

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- B. Chapter 59A, Article 2 NMSA 1978;
- C. Chapter 59A, Article 4 NMSA 1978;
- D. Chapter 59A, Article 10 NMSA 1978;
- E. Section 59A-12-22 NMSA 1978;
- F. Chapter 59A, Article 16 NMSA 1978; and
- G. Chapter 59A, Article 6 NMSA 1978.

### 3. Notice of Forfeiture

- A. NEW MEXICO STATUTES 1978, ANNOTATED CHAPTER 31. Criminal Procedure ARTICLE 3.

Bail 31-3-2 Failure to appear; forfeiture of bail bonds.

- Whenever a person fails to appear at the time and place fixed by the terms of his bail bond, the court may declare a forfeiture of the bail. If the court declares a forfeiture, it shall:
  - a. declare such forfeiture at the time of nonappearance;
  - b. give written notice thereof to the surety within four working days of declaration; and
  - c. issue a bench warrant for the person's arrest.
- When a forfeiture has not been set aside, the court shall on motion enter a judgment of default, and execution may issue thereon. By entering into a bail bond, the obligors submit to the jurisdiction of the court and irrevocably appoint the clerk of the court as their agent upon whom papers affecting their liability may be served. Liability of the surety may be enforced on motion without the necessity of an independent action.
- Notice of the motion to enter a judgment of default may be served pursuant to the rules of criminal procedure or may be served on the clerk of the court, who shall forthwith mail copies to the obligors at their last known address. The notice shall require the sureties to appear on or before a given date and show cause why judgment shall not be entered against them for the amount of the bail bond or recognizance. If good cause is not shown, the court may then enter judgment against the obligors on the recognizance, for such sum as it sees fit, not exceeding the penalty fixed by the bail bond or recognizance.
- If any amount remains unpaid ten days after entry of judgment, the court may issue execution for satisfaction of judgment.

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- In the event that an obligor does not possess property in this state sufficient to satisfy a judgment against it for the whole or part of the penalty of a forfeited recognizance, the court entering judgment against the obligor on the recognizance shall send written notification to the superintendent of insurance. Immediately upon receipt of such written notification and pursuant to Section 46-6-4 NMSA 1978, the superintendent of insurance shall inform the obligor that unless the judgment is paid or an appeal, writ of error or supersedeas is taken within thirty days of the rendition of the judgment or decree, such obligor shall forfeit all right to do business in this state. If timely appeal, writ of error or supersedeas is not taken, the superintendent of insurance shall immediately take whatever steps necessary to revoke the right of the obligor to do business in this state.

**4. Allotted Time between Forfeiture Declaration and Payment Due Date.**

- A. MICHIE'S NEW MEXICO STATUTES ANNOTATED Rules of Criminal Procedure for the District Courts ARTICLE 4 Release Provisions RULE 5-406.

Bail bonds; exoneration; forfeiture.

- Forfeiture. If there is a breach of condition of a bond, the court may declare a forfeiture of the bail. If a forfeiture has been declared, the court shall hold a hearing on the forfeiture prior to entering a judgment of default on the bond. *A hearing on the forfeiture shall be held thirty (30) or more days after service of the Notice of Forfeiture and Order to Show Cause on the clerk of the court in the manner provided by Rule 5-407.*

**5. Forfeiture Defenses.**

- A. MICHIE'S NEW MEXICO STATUTES ANNOTATED Rules of Criminal Procedure for the District Courts ARTICLE 4 Release Provisions RULE 5-406.

Bail bonds; exoneration; forfeiture.

- Exoneration of bond. Unless otherwise ordered for good cause, a bond shall only be automatically exonerated:
  1. after twelve (12) months if the crime is a felony and no charges have been filed in the district court;
  2. after six (6) months if the crime is a misdemeanor or petty misdemeanor and no charges have been filed;
  3. at any time prior to entry of a judgment of default on the bond if the district attorney approves; or
  4. upon surrender of the defendant to the court by an unpaid surety.
- *Surrender of an offender by a paid surety.* A person who is released upon execution of a bail bond by a paid surety may be arrested by the paid surety

if the court has revoked the defendant's conditions of release pursuant to Rule 5- 403 or if the court has declared a forfeiture of the bond pursuant to the provisions of this rule. If the paid surety delivers the defendant to the court prior to the entry of a judgment of default on the bond, the court may absolve the bondsman of responsibility to pay all or part of the bond.

## **6. Remission.**

### **A. NEW MEXICO STATUTES 1978, ANNOTATED CHAPTER 31. Criminal Procedure ARTICLE 3. Bail 31-3-2**

Failure to appear; forfeiture of bail bonds.

- When a judgment has been rendered against the defendant or surety for the whole or part of the penalty of a forfeited recognizance, the court rendering such judgment shall remit the amount thereof when, after such rendition, the accused has been arrested and surrendered to the proper court to be tried on such charge or to answer the judgment of the court, provided that the apprehension of the accused in some way was aided by the surety's efforts or by information supplied by the surety.
- The court may direct that a forfeiture be set aside, upon such conditions as the court may impose, if it appears that justice does not require the enforcement of the forfeiture.

### **B. MICHIE'S NEW MEXICO STATUTES ANNOTATED Rules of Criminal Procedure for the District Courts ARTICLE 4 Release Provisions RULE 5-406.**

Bail bonds; exoneration; forfeiture.

- Setting aside forfeiture. The court may direct that a forfeiture be set aside in whole or in part upon a showing of good cause why the defendant did not appear as required by the bond or if the defendant is surrendered by the surety into custody prior to the entry of a judgment of default on the bond. Notwithstanding any provision of law, no other refund of the bail bond shall be allowed.

### **C. State v. Amador, 98 N.M. 270, 648 P.2d 309 (1982).**

Court's discretion in ordering forfeiture. -- The court must exercise its discretion in determining whether to order forfeiture of the entire amount of the bond.

## **7. Bail Agent's Arrest Authority.**

### **A. NEW MEXICO STATUTES 1978, ANNOTATED CHAPTER 31. Criminal**

Procedure ARTICLE 3. Bail 31-3-3

Surrender of principal by surety.

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- When a surety desires to be discharged from the obligation of its bail bond, the surety may arrest the accused and deliver him to the sheriff of the county in which the action against the accused is pending.
- The surety shall, at the time of surrendering the accused, deliver to the sheriff a certified copy of the order admitting the accused to bail and a certified copy of the bail bond. Delivery of these documents shall be sufficient authority for the sheriff to receive and retain the accused until he is otherwise bailed or discharged.
- Upon the delivery of the accused as provided in this section, the surety may apply to the court for an order discharging him from liability as surety; and upon satisfactory proof being made that this section has been complied with, the court shall enter an order discharging the surety from liability.
- This section shall not apply to a paid surety as defined by Section 31- 3-4 NMSA 1978.

*31-3-4 Paid sureties.*

- A "paid surety" is a surety that has taken money, property or other consideration to act as a surety for the accused.
- When a paid surety desires to be discharged from the obligation of its bond, it may arrest the accused and deliver him to the sheriff of the county in which the action against the accused is pending.
- The paid surety shall, at the time of surrendering the accused, deliver to the sheriff a certified copy of the order admitting the accused to bail and a certified copy of the bail bond. Delivery of these documents shall be sufficient authority for the sheriff to receive and retain the accused until he may be brought before the court.
- A paid surety may be released from the obligation of its bond only by an order of the court.
- The court shall order the discharge of a paid surety if:
  1. there has been a final disposition of all charges against the accused;
  2. the accused is dead;
  3. circumstances have arisen which the surety could not have foreseen at the time it became a paid surety for the accused; or
  4. the contractual agreement between the surety, the principal and the state has terminated.

**8. Other Noteworthy Provisions.**

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A. NEW MEXICO STATUTES 1978, ANNOTATED CHAPTER 7. Taxation ARTICLE 9. Gross Receipts and Compensating Tax 7-9-24

Exemption; gross receipts tax; insurance companies.

- Exempted from the gross receipts tax are the receipts of insurance companies or any agent thereof from premiums and any consideration received by a property bondsman, as that person is defined in Section 59A-51-2 NMSA 1978, as security or surety for a bail bond in connection with a judicial proceeding.

B. MICHIE'S NEW MEXICO STATUTES ANNOTATED Rules of Criminal Procedure for the District Courts ARTICLE 4 Release Provisions RULE 5-401B.

- Bail bonds; justification of compensated sureties; property bonds.

*RULE 6-401B. Bail bonds; justification of compensated sureties.*

C. NEW MEXICO STATUTES 1978, ANNOTATED CHAPTER 59A. Insurance Code ARTICLE 51. Bail Bondsmen Licensing 59A-51-13

Practices.

- No bail bondsman or solicitor shall:
  1. suggest or advise the employment of or name for employment any particular attorney to represent his principal;
  2. pay a fee or rebate or give or promise anything of value to a jailer, policeman, peace officer, committing magistrate or any other person who has power to arrest or to 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 estreatment thereof, or to secure delay or other advantage;
  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 his behalf;
  5. participate in the capacity of an attorney at a trial or hearing of one on whose bond he is surety; or
  6. accept anything of value from a principal except the premium which may be paid in cash or property; 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. Such 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 cash as collateral, he shall deposit such cash in his trust account and give a written receipt for same, and this receipt shall give in detail a full account of the collateral received.
- Law enforcement, adjudication and prosecution officials and their employees, attorneys-at-law, officials authorized to admit to bail, and state and county officers shall not directly or indirectly receive any benefits from the execution of any bail bond.
- A bail bondsman shall not sign nor countersign in blank any bond, nor shall he give a power of attorney to, or otherwise authorize anyone to countersign his name to bonds unless the person so authorized is a licensed bondsman directly employed by the bondsman giving such power of attorney.
- No bail bond agency shall advertise as or hold itself out to be a surety insurer.
- Every bail bondsman shall have a permanent street address and all bail bond business shall be conducted from that address.

D. NEW MEXICO STATUTES 1978, ANNOTATED CHAPTER 31. Criminal Procedure ARTICLE 3.31-3-5

Approval of bond.

- No bond shall be accepted from a paid surety, as defined in Section 31-3-4 NMSA 1978, by a magistrate court or a district court unless executed on a form which has been approved by the supreme court.

**9. Noteworthy State Appellate Decisions.**

A. STATE of New Mexico v. Alberto LOPEZ and Thomas K. Colson.

Nos. 9083, 9084.

Court of Appeals of New Mexico.

Sept. 9, 1986.

Certiorari Quashed March 17, 1987.

- Bondsman was convicted of aggravated assault on peace officer, attempted aggravated burglary, and aggravated assault, and his employee was convicted of attempted aggravated burglary and aggravated assault, by the District Court. They appealed.

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- The Court of Appeals held that:
  1. neither the common law nor statutory authority of bondsman to make warrantless arrest of principal absolved defendants of criminal responsibility ensuing from their armed, unauthorized and forcible entry into residence of third party;
  2. weapons found in possession of defendants were admissible as part of history of offenses charged;
  3. prosecutor's inadvertent remark, suggesting that it would take him a few minutes to call rebuttal witnesses since he had been relying on defense attorney's statement that employee would take stand, constituted reversible error as to employee;
  4. prosecutor's remark was not erroneous as to bondsman, who testified at length in his own defense; and
  5. evidence of deputy sheriff's alleged propensity for violence was not admissible, in connection with assault and battery charges arising out of bondsman's frisking of deputy.

B. Tony MADRID v. DEPARTMENT OF INSURANCE

No. 15224.

Supreme Court of New Mexico.

March 20, 1985.

- Licensee appealed decision of the Superintendent of Insurance suspending his property bondsman and limited surety agency licenses. The District Court upheld the Superintendent's decision, and licensee appealed.
- The Supreme Court held that under sections of Bail Bondsmen Licensing Law in effect at the time licenses were suspended by Superintendent of Insurance, licensee's only recourse was to appeal orders to Corporation Commission; therefore, district court did not have jurisdiction over licensee's direct appeal from Superintendent's order. The license suspension was reversed and remanded.

C. STATE of New Mexico v. Adelaida Ellen RAMIREZ, Charles McNelly and Cotton Belt Insurance Company

No. 13575.

Supreme Court of New Mexico.

Nov. 30, 1981.

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- Appeal was taken from order of the District Court affirming the magistrate court's denial of motion to remit or reduce bail bond forfeiture judgment.
- The Supreme Court held that magistrate court had jurisdiction to decide the motion to remit or reduce though motion was made more than 15 days after entry of forfeiture judgment. The denial or remittance was reversed and remanded.

#### D. Other Relevant Cases.

- State v. Cotton Belt Ins. Co., 97 N.M. 152, 637 P.2d 834 (1981).
- Bail is subject to forfeiture until such time as the defendant surrenders himself to the authorities to serve his sentence.
- 1989 Op. Att'y Gen. No. 89-12.

A metropolitan court judge may refund a forfeited bond to a bondsman who is able to apprehend a defendant and bring her back to court, as the conflict concerns substantive law over which the statute controls.

- State v. United Bonding Ins. Co., 81 N.M. 154, 464 P.2d 884 (1970).

No bail discharge because principal imprisoned in another state. -- If the performance of a recognizance is rendered impossible by the imprisonment of the principal in another state, it is not such an act of law as will discharge bail.

### **10. Bounty Hunter Provisions.**

At this time, there appear to be no additional regulations specifically for "Bounty Hunters" in the New Mexico statutes.