

## Oklahoma Bail Laws

### 1. Applicable Statutes.

- A. OKLAHOMA STATUTES ANNOTATED TITLE 59. PROFESSIONS AND OCCUPATIONS CHAPTER 33. BAIL BONDSMEN.

### 2. Licensing Requirements for Agents.

\*\*\* The Oklahoma statutes have extensive provisions on licensing requirements.  
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OKLAHOMA STATUTES ANNOTATED TITLE 59. PROFESSIONS AND OCCUPATIONS  
CHAPTER 33. BAIL BONDSMEN

#### § 1301. Definitions

- As used in this act:
  1. "Commissioner" means the Insurance Commissioner of the State of Oklahoma;
  2. "Bail bondsman" means a surety bondsman, professional bondsman, property bondsman, or a cash bondsman as hereinafter defined;
  3. "Surety bondsman" means any person who has been approved by the Commissioner and appointed by an insurer or a professional bondsman, by power of attorney, to execute or countersign bail bonds for the insurer or a professional bondsman, in connection with judicial proceedings and charges and receives money for his services;
  4. "Managing general agent" (M.G.A.) means any person acting in the capacity of supervisor or manager over a licensed bondsman, who has been granted the authority or responsibility by a surety company to conduct surety business on its behalf, and to oversee the activities and conduct of the surety's appointed licensed bondsman agents, and who generally functions as an intermediate manager between the surety and its licensed bondsman agents. A managing general agent fulfilling these functions shall be a natural person, shall meet the qualifications of paragraph 5 of this subsection and shall be licensed as a bondsman;
  5. "Professional bondsman" means any person who has been approved by the Commissioner and who pledges cash as security for a bail bond in connection with a judicial proceeding and charges and receives money for his services;
  
- B. § 1303. License required--Acts exempt--Individual license--Renewal--Corporations—Attorneys

- A. No person shall act in the capacity of a bail bondsman or perform any of the functions, duties or powers prescribed for bail bondsmen under the provisions of the act unless that person shall be qualified and licensed as provided in this act: [FN1] Provided, however, that none of the provisions or terms of this section shall prohibit any individual or individuals from (1) pledging real or other property as security for a bail bond for himself or another in judicial proceedings who does not receive, or is not promised a fee or charge for his services provided such person shall not be permitted to make in excess of ten bonds per year or, (2) executing any bail bond for an insurer, pursuant to a bail bond service agreement entered into between such insurer and any automobile club or association, financing institution, insurance company or other organization or association, on behalf of a person required to furnish bail in connection with any violation of law arising out of the use of a motor vehicle.
  - B. No license shall be issued except in compliance with this act and none shall be issued except to an individual. License renewals shall be granted subject to all other provisions of this act. A corporation as such shall not be licensed. Nothing herein contained shall be construed as repealing Section 11 of Title 5 of the Oklahoma Statutes; and it is further provided that licensed attorneys are prohibited from signing any bonds as surety in any civil or criminal action pending or about to be filed in any court of this state.
- C. § 1304. Expiration Date.
- All licenses expire annually at 12:00 midnight on the last day of December.
- D. § 1305. Applications--Contents--Interrogatories and investigation--Fee--  
Second and subsequent applications
- A. The application for license to serve as a bail bondsman must affirmatively show that the applicant:
    1. Is a person who has reached the age of twenty-one (21) years;
    2. Is of good character and reputation;
    3. Has not been previously convicted of, or pled guilty or nolo contendere to, any felony, or to a misdemeanor involving moral turpitude or dishonesty;
    4. Is a citizen of the United States;
    5. Has been a bona fide resident of the state for at least one (1) year;
    6. Will actively engage in the bail bond business;
    7. Has knowledge or experience, or has received instruction in the bail bond business; and

8. Has a high school diploma or its equivalent; provided, however, the provisions of this paragraph shall apply only to initial applications for license submitted on or after November 1, 1997, and shall not apply to renewal applications for license.

- B. The applicant shall apply in writing on forms prepared and supplied by the Insurance Commissioner, and the Commissioner may propound any reasonable interrogatories to an applicant for a license pursuant to Section 1301 et seq. of this title, or on any renewal thereof, relating to qualifications, residence, prospective place of business and any other matters which, in the opinion of the Commissioner, are deemed necessary or expedient in order to protect the public and ascertain the qualifications of the applicant. The Commissioner may also conduct any reasonable inquiry or investigation relative to the determination of the applicant's fitness to be licensed or to continue to be licensed.
- C. An applicant shall furnish to the Commissioner a license fee of Two Hundred Fifty Dollars (\$250.00) with the application, a complete set of the applicant's fingerprints and two recent credential-size full face photographs of the applicant. The applicant's fingerprints shall be certified by an authorized law enforcement officer. The applicant shall provide with the application an investigative fee of One Hundred Dollars (\$100.00) with which the Commissioner will conduct an investigation of the applicant. All fees shall be nonrefundable.
- D. Failure of the applicant to secure approval of the Commissioner shall not preclude the applicant from reapplying, but a second application shall not be considered by the Commissioner within three (3) months after denial of the last application.

E. § 1308. Examinations—Fees

- A. The applicant for bail bondsman shall be required to appear in person and take a written examination prepared by the Insurance Commissioner, testing the applicant's ability and qualifications to be a bail bondsman. Applications are valid for six (6) months after submission. If an applicant has not acted upon the application within that period, a new application and fees shall be submitted for the applicant to be considered for licensure.
- B. Each applicant shall become eligible for examination ninety (90) days after the date the application is received by the Commissioner, if the applicant has completed sixteen (16) hours of education as required by Section 1308.1 of this title and the Commissioner is otherwise satisfied as to the applicant's fitness to take the examination. Examinations shall be held at times and places as designated by the Commissioner, and the applicant shall be given notice of the time and place not less than fifteen (15) days prior to taking the examination.
- C. The fee for the examination shall be One Hundred Dollars (\$100.00) in addition to the license fee heretofore provided and shall be submitted after approval of the application but prior to taking the examination. Results will be mailed to the applicant within thirty (30) days after the applicant is examined.

- D. The failure of an applicant to pass an examination shall not preclude the applicant from taking subsequent examinations; provided, however, that at least three (3) months must intervene between examinations; and provided further, after a third or subsequent examination failure, an applicant may not apply and be examined for at least one (1) year after the last examination failure.
- F. § 1308.1. Examination--Educational requirements--Fee—Penalties
- A. In order to be eligible to take the examination required to be licensed as a bail bondsman, each person shall complete not less than sixteen (16) clock hours of education in subjects pertinent to the duties and responsibilities of a bail bondsman, including all laws and regulations related thereto. Further, each licensee shall complete annually not less than eight (8) clock hours of continuing education in said subjects prior to renewal of the license. Such continuing education shall not include a written or oral examination. Provided, any person licensed as a bail bondsman prior to November 1, 1989, shall not be required to complete sixteen (16) clock hours of education prior to licensure but shall be subject to the eight-hours continuing education requirement in order to renew said license, except that a licensed bail bondsman who is sixty-five (65) years of age or older and who has been licensed as a bail bondsman for fifteen (15) years or more shall be exempt from both the education and continuing education requirements of this section.
- G. See § 1309 for procedure on renewal of licenses, which includes 8 hours of continuing education and a \$100 fee.
- H. § 1310. Denial, censure, suspension, revocation or refusal to renew license—  
Grounds
- (See statute for a list of more than 30 grounds for denial, revocation, etc. of a license).
- I. See § 1311 – 1312 for provisions regarding the appeal of penalties for misconduct.
- J. § 1320. Registration of license and fee--Proof of residency--List of bondsmen--  
County not having licensed bondsman--Filing of appointment--Number of  
bonds which may be written
- A. No bail bondsman shall become a surety on an undertaking unless he has first registered his license in the office of the sheriff and with the clerk of the district court in the county in which the bondsman resides or offices, but not both. In the county in which a bondsman registers his license, he shall provide the court clerk with proof that he is a resident of said county or that he offices in said county. The court clerk of the county shall provide a list of

bondsmen permitted to write surety in that county to the judges and law enforcement offices of that county. In any county not having a licensed bondsman authorized to do business within said county, the court having jurisdiction shall allow and fix bail. A surety bondsman shall also file a certified copy of his appointment by power of attorney from the insurer which he represents as agent with each of said officers. A fee of Ten Dollars (\$10.00) shall be paid to the district court clerk for each county in which the bail bondsman registers his license. The fee shall be payable annually by the date of license renewal. The clerk of the district court and the sheriff shall not permit the registration of a bail bondsman unless such bondsman is currently licensed by the Insurance Commissioner under the provisions of Section 1301 et seq. of this title.

- B. Notwithstanding the foregoing provisions of this section, a bondsman may write bonds on no more than ten defendants per year in each of the remaining seventy-six counties of this state in which the bondsman cannot register his license. Provided, however, a bondsman shall not be limited to writing bonds on only ten defendants per year in a county which does not have a licensed bondsman registered in said county. The bondsman shall advise the court clerk of each such county in writing of his intention to write bonds in the county and shall file a certified copy of his license with and pay a fee of Ten Dollars (\$10.00) to each such court clerk.

### **3. Notice of Forfeiture**

#### **A. OKLAHOMA STATUTES ANNOTATED TITLE 59. PROFESSIONS AND OCCUPATIONS CHAPTER 33. BAIL BONDSMEN**

##### § 1332. Forfeiture procedure

- A. If there is a breach of an undertaking, the court before which the cause is pending shall declare the undertaking and any money, property, or securities that have been deposited as bail, forfeited on the day the defendant failed to appear. In the event of the forfeiture of a bail bond the clerk of the trial court shall, within thirty (30) days after the forfeiture, by mail with return receipt requested, mail a true and correct copy of the order and judgment of forfeiture to the bondsman, and if applicable, the insurer, whose risk it is, and keep at least one copy of the order and judgment of forfeiture on file; provided, the clerk shall not be required to mail the order and judgment of forfeiture to the bondsman or insurer if, within fifteen (15) days from the date of forfeiture, the defendant is returned to custody, the bond is reinstated by the court with the bondsman's approval, or the order of forfeiture is vacated or set aside by the court.
- B. The order and judgment of forfeiture shall be on forms prescribed by the Administrative Director of the Courts.

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

- A. OKLAHOMA STATUTES ANNOTATED TITLE 59. PROFESSIONS AND OCCUPATIONS CHAPTER 33. BAIL BONDSMEN § 1332. Forfeiture procedure
- C.1. The bail bondsman shall have ninety (90) days from receipt of the order and judgment of forfeiture from the court clerk or mailing of the notice if no receipt is made, to return the defendant to custody.
  - 2. When the court record indicates that the defendant is returned to custody in the jurisdiction where forfeiture occurred, within the ninety-day period, the court clerk shall enter minutes vacating the forfeiture and exonerating the bond. If the defendant has been timely returned to custody, but this fact is not reflected by the court record, the court shall vacate the forfeiture and exonerate the bond.
  - 3. For the purposes of this section, return to custody shall mean:
    - a. the return of the defendant to the appropriate Oklahoma law enforcement agency by the bondsman,
    - b. an appearance of the defendant in open court in the court where charged,
    - c. arrest or incarceration within this state of the defendant by law enforcement personnel, or
    - d. arrest or incarceration of the defendant in any other jurisdiction provided, the bondsman has requested that a hold be placed on the defendant in the jurisdiction wherein the forfeiture lies, and has guaranteed reasonable travel expenses for the return of the defendant.

#### **5. Forfeiture Defenses.**

- A. OKLAHOMA STATUTES ANNOTATED TITLE 59. PROFESSIONS AND OCCUPATIONS CHAPTER 33. BAIL BONDSMEN § 1332. Forfeiture procedure
- 4. In addition to the provisions set forth in paragraphs 2 and 3 of this subsection, the court may vacate the forfeiture and exonerate the bond in any felony case in which:
    - a. the bondsman has requested in writing of the sheriff's department in the county where the forfeiture occurred that the defendant be entered into the computerized records of the National Crime Information Center, and
    - b. the request has not been honored within thirty (30) business days of the receipt of the written request by the department.

- 5. The court may, in its discretion, vacate the order of forfeiture and exonerate the bond where good cause has been shown for:
  - a. the defendant's failure to appear, or
  - b. the bondsman's failure to return the defendant to custody within ninety (90) days.
- D. 1. If, within ninety (90) days from receipt of the order and judgment of forfeiture from the court clerk, or mailing of the notice if no receipt is made, the defendant is not returned to custody, or the forfeiture has not been stayed, the bondsman and if applicable, the insurer whose risk it is, shall deposit cash or other valuable securities in the face amount of the bond with the court clerk ninety-one (91) days from receipt of the order and judgment of forfeiture from the court clerk, or mailing of the notice if no receipt is made; provided, this provision shall not apply if the defendant has been returned to custody within the ninety-day period and the court has failed to vacate the forfeiture pursuant to paragraphs 2 through 5 of subsection C of this section.
- 2. After the order and judgment has been paid, the bondsman and if applicable, the insurer, whose risk it is, may file a motion for remitter within one hundred eighty (180) days from receipt of the order and judgment of forfeiture, or mailing of the notice if no receipt is made, and upon the event the defendant is returned to custody within ninety (90) days after payment is due, and all expenses for the defendant's return have been paid by the bondsman, the bondsman's property shall be returned.
- E. 1. If the defendant's failure to appear was the result of being in the custody of a court other than the court in which the appearance was scheduled, forfeiture shall not lie. Upon proof to the court that the bondsman paid the order and judgment of forfeiture without knowledge that the defendant was in custody of another court on the day the defendant was due to appear, and all expenses for the defendant's return have been paid by the bondsman, the bondsman's property shall be returned.
- 2. Where the defendant is in the custody of another court, the district attorney or municipal attorney shall direct a hold order to the official, judge, court or law enforcement agent wherein the defendant is in custody; provided, that all expenses accrued as a result of returning the custody of the defendant shall be borne by the bondsman.

**6. Remission.**

- (No additional provisions are given in the OK statutes specifically for remission. See the other forfeiture sections).

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

A. OKLAHOMA STATUTES ANNOTATED TITLE 59. PROFESSIONS AND OCCUPATIONS CHAPTER 33. BAIL BONDSMEN. § 1329. Arrest

- For the purpose of surrendering the defendant, the surety may arrest him before the forfeiture of the undertaking, or by written authority endorsed on a certified copy of the undertaking, may empower any peace officer to make arrest, first paying the lawful fees thereof.

B. § 1332.1. Persons permitted to return defendant to custody.

For the purpose of surrendering a defendant after a breach of the undertaking, the following persons may return the defendant to custody.

1. A bondsman or surety;
2. An employee of a bondsman or surety; or
3. A peace officer acting within the peace officer's jurisdiction.

C. § 1327. Surrender of defendant prior to breach--Defendant in custody in another jurisdiction--Exoneration of bond in original court

- At any time before there has been a breach of the undertaking in any type of bail provided herein, the surety or bondsman may surrender the defendant, or the defendant may surrender himself or herself, to the official to whose custody the defendant was committed at the time bail was taken, or to the official into whose custody the defendant would have been given had he or she been committed. The defendant may be surrendered without the return of premium for the bond if he or she has been guilty of nonpayment of premium, changing address without notifying his or her bondsman, conceals himself or herself, or leaves the jurisdiction of the court without the permission of his or her bondsman, or of violating his or her contract with the bondsman in any way that does harm to the bondsman, or the surety, or violates his or her obligation to the court. When a bondsman or surety surrenders a defendant pursuant to this subsection, the bondsman or surety shall file written notification of the surrender. After surrender, and upon filing of written notification of the surrender, the bond shall be exonerated and the clerk shall enter a minute in the case exonerating the bond.
- If the defendant has been placed in custody of another jurisdiction, the district attorney shall direct a hold order to the official, judge or law enforcement agency where the defendant is in custody. All reasonable expenses accrued in returning the defendant to the original court shall be borne by the bondsman who posted the bond with that court. Upon application, the bond in the original court shall be exonerated when the hold order is placed and upon proof of payment of expenses by the bondsman.

**8. Other Noteworthy Provisions.**

Allegheny Casualty - International Fidelity - Associated Bond



- A. OKLAHOMA STATUTES ANNOTATED TITLE 59. PROFESSIONS AND OCCUPATIONS CHAPTER 33. BAIL BONDSMEN § 1332. Forfeiture procedure
- 3. If the additional cash or securities are not deposited with the court clerk on or before the ninety-first day after the date of service of the order and judgment of forfeiture from the court clerk, or mailing of the notice if no receipt is made, then the court clerk shall notify the Insurance Commissioner by sending a certified copy of the order and judgment of forfeiture and proof that the bondsman and, if applicable, the insurer have been notified by mail with return receipt requested. 4. The Insurance Commissioner shall:
    - a. in the case of a surety bondsman, immediately cancel the license privilege and authorization of the insurer to do business within the State of Oklahoma and cancel the appointment of all surety bondsman agents of the insurer who are licensed by Section 1301 et seq. of this title, and
    - b. in the case of a professional bondsman, withdraw the face amount of the said forfeiture from the deposit provided in Section 1306 of this title. The Commissioner shall then immediately direct the professional bondsman, by mail with return receipt requested, to make additional deposits to bring the original deposit to the required level. Should the professional bondsman, after being notified, fail to make an additional deposit within ten (10) days from the receipt of notice, or mailing of notice if no receipt is made, the license shall be revoked and all sums presently on deposit shall be held by the Commissioner to secure the face amounts of bonds outstanding. Upon release of the bonds, any amount of deposit in excess of the bonds shall be returned to the bondsman; provided, the bail bondsman shall have had notice as required by the court, at the place of the bondsman's business, of the trial or hearing of the defendant named in the bond. The notice shall have been at least ten (10) days before the required appearance of the defendant, unless the appearance is scheduled at the time of execution of the bond. Notwithstanding the foregoing, the bondsman shall be deemed to have had notice of the trial or hearing if the defendant named in the bond shall have been recognized back in open court to appear at a date certain for the trial or hearing.
  - 5. If the actions of any bail bondsman force the Insurance Commissioner to withdraw monies, deposited pursuant to Section 1306 of this title, to pay past due executions more than two (2) times in a consecutive twelve-month period, then the license of the professional bondsman shall, in addition to other penalties, be suspended automatically for one (1) year or until a deposit equal to all outstanding forfeitures due is made. The deposit shall be maintained until the Commissioner deems it feasible to reduce the deposit. In no case shall an increased deposit exceed two (2) years unless there is a recurrence of withdrawals as stated herein.
- B. § 1328. Procedure for surrender of defendant

- The person desiring to make a surrender of the defendant shall procure a certified copy of the undertakings and deliver them together with the defendant to the official in whose custody the defendant was at the time bail was taken, or to the official into whose custody he would have been given had he been committed, who shall detain the defendant in his custody thereon, as upon a commitment, and by a certificate in writing acknowledge the surrender. Upon the presentation of certified copy of the undertaking and the certificate of the official, the court before which the defendant has been held to answer or the court in which the preliminary examination, indictment, information or appeal, as the case may be is pending shall, upon notice of three (3) days given by the person making the surrender to the prosecuting officer of the court having jurisdiction of the offense, together with a copy of the undertakings and certificate, order that the obligors be exonerated from liability on their undertakings; and, if money has been deposited as bail, that such money or bonds be refunded. If property pledged, a certificate of exoneration be issued and the lien previously filed be released and the undertakings of whatever nature be canceled.

C. § 1340. Persons Excluded

- This act (the entire act and all sections) shall not apply to a person who writes only one bond within each calendar year and who does not charge a fee for his services.

**9. Noteworthy State Appellate Decisions.**

A. State v. Vaughn

11 P.3d 211, 2000 OK 63

Okla.

Jul 18, 2000

- After bail bond was forfeited due to defendant's failure to appear for preliminary hearing, bondsman filed motion to vacate the forfeiture order. The trial court refused to grant relief and denied bondsman's motion for new trial. Bondsman appealed. The Court of Civil Appeals affirmed. After granting certiorari, the Supreme Court, Boudreau, J., held that: (1) state's filing of an amended information did not discharge bondsman's obligation on the bail bond, and (2) trial court acted within its discretion in concluding that bondsman failed to establish good cause to vacate forfeiture order. Opinion of Court of Civil Appeals vacated; judgment of trial court affirmed.

B. State v. Wallace

Allegheny Casualty - International Fidelity - Associated Bond

1997 OK CIV APP 28, 940 P.2d 1212

Okla.Civ.App. Div. 3

Apr 25, 1997

- More than 180 days after receiving notice that bail bond was forfeited, bond company filed application for remitter. The District Court, Oklahoma County, Daniel L. Owens, J., denied application, and company appealed. The Court of Civil Appeals, Adams, C.J., held that use of word "may" in statute, providing after order and judgment has been paid bail bondsman or insurer may file motion for remitter within 180 days from receipt of order and judgment of forfeiture, does not give trial court discretion to extend statutory time limit.

Affirmed.

C. Fisher v. State

1981 OK CIV APP 36, 632 P.2d 439

Okla.App. Div. 2

Jun 09, 1981

- Appeal was taken from an order of the District Court of Oklahoma County, Carmon C. Harris, Trial Judge, denying bonding company's motion to have a bail bond forfeiture set aside. The Court of Appeals, Boydston, J., held that the bonding company was not a "bondsman" for the purpose of meeting the notice requirement of statute which provides that "bondsman" on a bail bond may file a motion to set aside an order of forfeiture within 60 days from the date of such notice, in that by definition and practice the surety bondsman is the agent of the insurer so that notice to him constitutes legal notice to the insurer.

Affirmed.

**10. Bounty Hunter Provisions.**

- At this time, there appear to be no specific regulations for "Bounty Hunters" in the Oklahoma statutes.