

## **Pennsylvania Bail Laws**

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

- A. PURDON'S PENNSYLVANIA STATUTES AND CONSOLIDATED STATUTES ANNOTATED PURDON'S PENNSYLVANIA CONSOLIDATED STATUTES ANNOTATED TITLE 42. JUDICIARY AND JUDICIAL PROCEDURE PART VI. ACTIONS, PROCEEDINGS AND OTHER MATTERS GENERALLY CHAPTER 57. BONDS AND RECOGNIZANCES SUBCHAPTER B. PROFESSIONAL BONDSMEN.
  - B. PURDON'S PENNSYLVANIA STATUTES AND CONSOLIDATED STATUTES ANNOTATED PURDON'S PENNSYLVANIA CONSOLIDATED STATUTES ANNOTATED RULES OF CRIMINAL PROCEDURE CHAPTER 4000. BAIL PART III. GENERAL PROCEDURES IN ALL BAIL CASES Rule 4016.
- \*\*\* Licensing and forfeiture requirements in PA may vary slightly from county to county in specific details such as time allotted between forfeiture declaration and actual forfeiture.\*\*\*

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

- A. PURDON'S PENNSYLVANIA STATUTES AND CONSOLIDATED STATUTES ANNOTATED PURDON'S PENNSYLVANIA CONSOLIDATED STATUTES ANNOTATED TITLE 42. JUDICIARY AND JUDICIAL PROCEDURE PART VI. ACTIONS, PROCEEDINGS AND OTHER MATTERS GENERALLY CHAPTER 57. BONDS AND RECOGNIZANCES SUBCHAPTER B. PROFESSIONAL BONDSMEN § 5741. Definitions
  - "Professional bondsman." Any person, other than a fidelity or surety company or any of its officers, agents, attorneys, or employees, authorized to execute bail bonds or to solicit business on its behalf, who:
    - (1) engages in the business of giving bail, giving or soliciting undertakings, or giving or soliciting indemnity or counter-indemnity to sureties on undertakings; or
    - (2) within a period of 30 days has become a surety, or has indemnified a surety, for the release on bail of a person, with or without a fee or compensation, or promise thereof, in three or more matters not arising out of the same transaction.
- B. § 5742. Registration and licensure required
  - General rule.--No professional bondsman shall become surety on any undertaking, and no person shall engage in or continue to engage in business as a professional bondsman, unless he has been registered and is currently licensed as a professional bondsman by the Insurance Department as provided in this subchapter and has filed a copy of his license in the office of the clerk in the manner prescribed by general rules.

- Form of application.--Every application for registration and licensure as a professional bondsman shall be made in writing upon such form as may be prescribed by regulations promulgated by the Insurance Department.

C. § 5743. Issuance of license

- (a) General rule.--The Insurance Department, upon receipt of:
  - (1) an application for registration and licensure as a professional bondsman; and
  - (2) an annual license fee of \$50; shall, if it approves the application, register the applicant as a professional bondsman and issue him a license.
- (b) Duration.--Each license shall be valid for one year following the date of issue.
- (c) Nontransferable.--No license issued under this subchapter shall be assigned or transferred.

D. § 5744. Office

- No license shall be issued to, and no privileges or rights conferred by any license issued under the provisions of this subchapter shall be exercised by, any professional bondsman, unless such professional bondsman has and shall thereafter maintain an office in the county in which he conducts or intends to conduct his business.

**3. Notice of Forfeiture**

A. PURDON'S PENNSYLVANIA STATUTES AND CONSOLIDATED STATUTES  
 ANNOTATED PURDON'S PENNSYLVANIA CONSOLIDATED STATUTES  
 ANNOTATED RULES OF CRIMINAL PROCEDURE CHAPTER 4000. BAIL PART III.  
 GENERAL PROCEDURES IN ALL BAIL CASES-Rule 4016. Procedures Upon  
 Violation of Conditions: Revocation of Release and Forfeiture; Bail Pieces;  
 Exoneration of Surety

- (2) Forfeiture
  - (a) When a monetary condition of release has been imposed and the defendant has violated a condition of the bail bond, the bail authority may order the cash or other security forfeited and shall state in writing or on the record the reasons for so doing.
  - (b) Written notice of the forfeiture shall be given to the defendant and any surety, either personally or by both first class and certified mail at the defendant's and the surety's last known addresses.

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

A. PURDON'S PENNSYLVANIA STATUTES AND CONSOLIDATED STATUTES ANNOTATED PURDON'S PENNSYLVANIA CONSOLIDATED STATUTES ANNOTATED RULES OF CRIMINAL PROCEDURE CHAPTER 4000. BAIL PART III. GENERAL PROCEDURES IN ALL BAIL CASES-Rule 4016. Procedures Upon Violation of Conditions: Revocation of Release and Forfeiture; Bail Pieces; Exoneration of Surety

- 2) Forfeiture

(c) The forfeiture shall not be executed until 20 days after notice of the forfeiture order.

**5. Forfeiture Defenses.**

A. PURDON'S PENNSYLVANIA STATUTES AND CONSOLIDATED STATUTES ANNOTATED PURDON'S PENNSYLVANIA CONSOLIDATED STATUTES ANNOTATED RULES OF CRIMINAL PROCEDURE CHAPTER 4000. BAIL PART III. GENERAL PROCEDURES IN ALL BAIL CASES-Rule 4016. Procedures Upon Violation of Conditions: Revocation of Release and Forfeiture; Bail Pieces; Exoneration of Surety

- (C) Exoneration

(1) A bail authority, in his or her discretion, may exonerate a surety who deposits cash in the amount of any forfeiture ordered or who surrenders the defendant in a timely manner.

(2) When the conditions of the bail bond have been satisfied, or the forfeiture has been set aside or remitted, the bail authority shall exonerate the obligors and release any bail.

**6. Remission.**

A. PURDON'S PENNSYLVANIA STATUTES AND CONSOLIDATED STATUTES ANNOTATED PURDON'S PENNSYLVANIA CONSOLIDATED STATUTES ANNOTATED RULES OF CRIMINAL PROCEDURE CHAPTER 4000. BAIL PART III. GENERAL PROCEDURES IN ALL BAIL CASES-Rule 4016. Procedures Upon Violation of Conditions: Revocation of Release and Forfeiture; Bail Pieces; Exoneration of Surety

- 2) Forfeiture

(d) The bail authority may direct that a forfeiture be set aside or remitted if justice does not require the full enforcement of the forfeiture order.

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

\*\*\* The Pennsylvania statutes do not explicitly grant arrest authority, though such may be implied from the following statute. \*\*\*

A. PURDON'S PENNSYLVANIA STATUTES AND CONSOLIDATED STATUTES ANNOTATED PURDON'S PENNSYLVANIA CONSOLIDATED STATUTES ANNOTATED RULES OF CRIMINAL PROCEDURE CHAPTER 4000. BAIL PART III. GENERAL PROCEDURES IN ALL BAIL CASES- Rule 4016. Procedures Upon Violation of Conditions: Revocation of Release and Forfeiture; Bail Pieces; Exoneration of Surety

- (C) Exoneration

(1) A bail authority, in his or her discretion, may exonerate a surety who deposits cash in the amount of any forfeiture ordered or who surrenders the defendant in a timely manner.

## 8. Other Noteworthy Provisions.

A. PURDON'S PENNSYLVANIA STATUTES AND CONSOLIDATED STATUTES ANNOTATED PURDON'S PENNSYLVANIA CONSOLIDATED STATUTES ANNOTATED TITLE 42. JUDICIARY AND JUDICIAL PROCEDURE PART VI. ACTIONS, PROCEEDINGS AND OTHER MATTERS GENERALLY CHAPTER 57. BONDS AND RECOGNIZANCES SUBCHAPTER B. PROFESSIONAL BONDSMEN § 5746. Suspension or revocation of license

- (a) General rule.--Upon petition of the district attorney or by any interested person to suspend or revoke the license issued to any licensee under this subchapter, a rule shall issue out of the court of common pleas, returnable not less than ten days after the issuance thereof. It shall be sufficient service of the said rule upon any licensee to leave a copy thereof at the address filed by the licensee with the clerk pursuant to this subchapter.
- (b) Grounds for suspension or revocation.--Any license issued under the provisions of this subchapter may be suspended, by any court of common pleas for a period less than the unexpired portion of the period for which such license shall have been issued, or may be revoked for good cause, or for any one or more of the following causes:

(1) Violation of any of the provisions of this subchapter.

(2) Fraudulently obtaining a license under the provisions of this subchapter.

(3) Upon conviction for any criminal offense under the laws of this Commonwealth or under the laws of the United States or any other jurisdiction.

(4) Upon being adjudged a bankrupt or insolvent.

(5) Failing to pay any judgment rendered on any forfeited undertaking in any court of competent jurisdiction.

(6) Any interference or attempted interference with the administration of justice.

B. § 5748. Maximum premiums

- General rule.--No professional bondsman shall charge a premium or compensation for acting as surety on any undertaking in excess of 10% for the first \$100, and 5% for each additional \$100 of such undertaking.
- Civil penalty.--In any action brought to recover an overcharge by a professional bondsman, where such overcharge is proved, the professional bondsman shall be liable to pay treble damages therefor and reasonable counsel fees.

C. § 5749. Prohibitions and penalties

- (a) Licensing.--Any person who engages in business as a professional bondsman without being registered and licensed in accordance with the provisions of this subchapter, or who engages in such business while his license is suspended or revoked, commits a misdemeanor of the third degree.
- (b) Overcharging.--Any person charging or receiving directly or indirectly any greater compensation for acting as a professional bondsman than is provided by this subchapter commits a summary offense.
- (c) Soliciting.--Any person who accepts any fee or compensation for obtaining a bondsman or a recognizance commits a summary offense.
- (d) Other violations.--Any person who violates any section of this subchapter for which no specific penalty other than suspension or revocation of license is provided commits a summary offense.
- (e) Public officials.--Any law enforcement officer, any employee of a penal institution, or any other system or related personnel, who has, directly or indirectly, any pecuniary interest in or derives any profit from the bonding business or activity of a professional bondsman commits a summary offense.
- (f) Public solicitation.--Any professional bondsman who solicits business in any of the courts or on the premises of any tribunal of this Commonwealth, including any tribunal conducted by a district justice, commits a summary offense.

**9. Noteworthy State Appellate Decisions.**

A. Com. v. Horce

726 A.2d 1067

Pa.Super.

Mar 03, 1999

Allegheny Casualty - International Fidelity - Associated Bond

- After defendant who was released on reinstated bail failed to appear for trial, capias was issued and bail was ordered forfeited. Commonwealth petitioned to execute on surety bond. The Court of Common Pleas, Dauphin County, Criminal Division, No. 2042 of 1997, Hoover, J., entered judgment against bail bondsman. Bondsman appealed. The Superior Court, No. 904 Harrisburg 1998, Olszewski, J., held that bondsman remained liable on surety bond after first forfeiture was set aside and bail was reinstated. Affirmed.

B. Com. v. Mrozek

703 A.2d 1052

Pa.Super.

Dec 16, 1997

- Bondsman petitioned to vacate forfeiture and return bail bond. The Court of Common Pleas, County of Fayette, Criminal Division, No. 151 of 1991, Wagner, J., denied motion and bondsman appealed. The Superior Court, No. 301 Pittsburgh 1997, Tamilia, J., held that record supported finding that investigation did not result in or have substantial impact on defendant's apprehension and return. Affirmed.

C. Com. v. Atkins

434 Pa.Super. 559, 644 A.2d 751

Pa.Super.

Jun 23, 1994

- Motion was filed for total remission of bail forfeiture. The Court of Common Pleas, Criminal Division, Blair County, Nos. 723, 755 CR 1992, Callan, J., denied motion. Appeal was taken. The Superior Court, No. 1281 Pittsburgh 1993, held that defendant's failure to appear while being held by authorities in another state was not willful and did not justify forfeiture of bail. Reversed and remanded.

**10. Bounty Hunter Provisions.**

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