

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1811, R.S. 22:3 and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 24:1123 (June 1998).

§4707. Cancellation Standards

A. The following standards shall govern the requirements for the cancellation provisions of vehicle mechanical breakdown contracts.

1. All Mechanical Breakdown Insurance contracts having terms of greater than six months shall be cancelable and refundable upon request of the insured.

2. The refund method to be used shall be the sum of the digits (Rule of 78s) or a refund method that will be more favorable to the insured.

3. The return factor is determined by the number of unused months or the number of unused miles, and shall be based on the full premium (including commissions) paid by the insured.

a. The number of months shall mean the number of months from the effective date of the policy until the expiration date of the policy.

b. The number of miles shall mean the sum of the number of miles on the odometer at the time of purchase and the policy mileage limit.

4. A cancellation fee, not to exceed \$50, may be charged, provided such fee is disclosed to the purchaser at the time of policy purchase.

5. The method of refund and any cancellation fee, shall be fully disclosed to the insured at or before the time of policy purchase by having such information printed in the policy form and the policy application, which shall be agreed to in writing, by the insured.

6. In calculating any refund requested by the insured, no deduction shall be allowed for any claim that has been paid under the contract being canceled.

7. If cancellation is requested in writing by the insured within 30 days from the date of purchase, full refund, minus the cancellation fee, if any, shall be made.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1811, R.S. 22:3 and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 24:1123 (June 1998).

§4709. Failure to Comply

A. In addition to any other penalties provided by the Louisiana Insurance Code relating to the regulation of Vehicle Mechanical Breakdown (VMB) insurers, any VMB insurer found to have violated the requirements of this regulation, may be issued a cease and desist order pursuant to R.S. 22:1810.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1811, R.S. 22:3 and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 24:1123 (June 1998).

§4711. Severability

A. If any provision of item of this regulation, or the application thereof, is held invalid, such invalidity shall not affect other provisions, items, or applications of the regulation which can be given effect without the invalid provisions, item, or application.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1811, R.S. 22:3 and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 24:1123 (June 1998), amended by Louisiana Legislature, House Concurrent Resolution Number 135 of the 2001 Regular Session, LR 27:1102 (July 2001).

§4713. Effective Date

A. This regulation shall take effect on June 20, 1998.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:1811, R.S. 22:3 and R.S. 49:950 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 24:1123 (June 1998).

Chapter 49. Regulation 65—Bail Bond Licensing Requirements/Bounty Hunter

§4901. Purpose

A. The purpose of this regulation is to establish guidelines for licensing, for transacting an apprehension or surrender of a principal, prelicensing for applicants and continuing education for licensed agents or solicitors, bail bonds, fines and hearings, definitions and related matters.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:7, 22:10, 22:658.1, 22:1065.1, 22:1113, 22:1404.3, 22:1191(B), 22:1211, and 22:1214.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 25:706 (April 1999).

§4903. Definitions

A. The following terms when used in this Chapter shall have the following meanings.

Bail Bond Agent—a person, corporation, or partnership which holds an insurance agent or solicitor license and who is authorized to provide surety in Louisiana, and/or engages in the apprehension and return of persons who are released on bail or who failed to appear at any state of the proceedings to answer the charge before the court in which they may be prosecuted. For purposes of this regulation a bail recovery agent is synonymous with a bail bond agent.

Bail Enforcement—the apprehension or surrender of a principal by a natural person who is released on bail or who has failed to appear at any state of the proceedings to answer the charge before the court in which he may be prosecuted.

Bail Solicitor—an individual who holds an insurance license and is authorized by a duly licensed bail bond agent to solicit contracts of bail bond insurance and engages in bail enforcement, solely on behalf of the licensed bail bond agent.

Commissioner—the Louisiana Commissioner of Insurance.

Department—the Louisiana Department of Insurance.

Insurer—any domestic or foreign insurance corporation or association engaged in the business of insurance or suretyship which has qualified to transact surety or casualty business in this state.

Surrender—as defined by the L.A.-CCRP Article 345.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:7, 22:10, 22:658.1, 22:1065.1, 22:1113, 22:1404.3, 22:1191(B), 22:1211, and 22:1214.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 25:707 (April 1999).

§4905. Bail Recovery Agent License Requirements for Louisiana

A. In order to engage, to transact, or assist in the apprehension or surrender of a principal, a person must be a duly licensed bail bond agent or solicitor, pursuant to Part XXIV and Part XXV-A of the Louisiana Insurance Code.

1. Prelicensing

a. On and after May 1, 1999, all persons applying for a bail bond agent or solicitor license must complete eight hours of supervised instruction approved by the department, four hours of which, must be instruction in bail enforcement.

2. Continuing Education Program

a. Persons holding a valid bail bond agent or solicitor license must complete 12 hours of a continuing education program, approved by the department, every two-year licensing period, four hours of which must be instruction in bail enforcement. On or before January 1 of every odd numbered year, all duly licensed bail bond agents shall have completed 12 hours of continuing education described in this Section.

3. On and after May 1, 2000, no person shall engage in the bail bond insurance business, including enforcement and bail recovery activities, unless such person is duly licensed bail bond agent or solicitor pursuant to Part XXIV and Part XXV-A of the Louisiana Insurance Code.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:7, 22:10, 22:658.1, 22:1065.1, 22:1113, 22:1404.3, 22:1191(B), 22:1211, and 22:1214.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 25:707 (April 1999).

§4907. Bail Recovery Persons License Requirement from Other States

A. Bail recovery persons from other states must be duly authorized to transact bail enforcement or be a licensed bail bond agent in the state where the bond was written and shall act in association with a local bail agent duly licensed by the Louisiana Department of Insurance to transact bail enforcement in this state.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:7, 22:10, 22:658.1, 22:1065.1, 22:1113, 22:1404.3, 22:1191(B), 22:1211, and 22:1214.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 25:707 (April 1999).

§4909. Out of State Bail Enforcement Procedure and Notification Requirements

A. In order for a bail recovery person from another state to transact a surrender or apprehension of a principal in Louisiana, the following shall be done.

1. Before conducting surrender or apprehension of a principal, the bail recovery person(s) from other states shall notify the local law enforcement.

2. Bail recovery persons from other states must have in their possession certified copies of material needed to identify the principal. Said materials shall be:

a. a judgement of bond forfeiture or court order of failure to appear and/or certified copy of bond and/or the agent's duly executed copy of the contract;

b. a photograph of the principal; and

c. documentation reflecting that person is duly authorized to transact bail enforcement by the state where the bond was written.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:7, 22:10, 22:658.1, 22:1065.1, 22:1113, 22:1404.3, 22:1191(B), 22:1211, and 22:1214.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 25:707 (April 1999).

§4911. In State Bail Enforcement Procedure and Notification Requirement

A. In order to transact a surrender or apprehension of a principal, the following shall be done.

1. Before conducting a surrender or apprehension of a principal, the bail bond agent or solicitor shall notify the local law enforcement in the parish or city where the principal is sought unless exigent circumstances exist.

2. The bail bond agent or solicitor shall be required to wear identifying clothing before transacting a surrender or an apprehension in a private residence.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:7, 22:10, 22:658.1, 22:1065.1, 22:1113, 22:1404.3, 22:1191(B), 22:1211, and 22:1214.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 25:707 (April 1999).

§4913. Prohibited Acts

A. No licensed bail agent or solicitor shall improperly withhold, misappropriate, fail to timely remit premiums and reports of bonds written, or convert to one's own use any monies belonging to principals, sureties and underwriters, or others possessed in the course of the business of insurance.

B. No licensed bail agent or solicitor shall perform bail enforcement in pursuit of any principal released on bail for nonpayment of premium. The surrender of a principal in violation of this Subsection shall entitle the principal to the return of any premium paid.

C. No licensed bail agent or solicitor shall remove or have removed any bail bond power of attorney from the clerk of court or sheriff.

D. No licensed bail agent or solicitor shall transact or engage in the surrender or apprehension of a principal with the assistance of an unlicensed person.

E. No commercial surety shall fail to timely pay bond forfeiture claims that meet the requirements of R.S. 22:658.1.A.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:7, 22:10, 22:658.1, 22:1065.1, 22:1113, 22:1404.3, 22:1191(B), 22:1211, and 22:1214.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 25:708 (April 1999).

§4915. Enforcement of Regulation

A. The commissioner is vested with the authority to enforce this regulation. The department may conduct investigations or request other state, parish or local officials to conduct investigations.

B.1. Violations of this Section are governed by Part XXIV (Qualification and License Requirements for Insurance Agents, Brokers, Surplus Lines Brokers and Solicitors) and XXVI (Unfair Trade Practices) of the Louisiana Insurance Code.

2. The commissioner shall impose penalties, sanctions or fines as delineated in Part XXIV and XXVI of the Louisiana Insurance Code. The commissioner may seek contained herein that results in a public harm.

C. The commissioner may promulgate such rules and regulations as may be deemed necessary for the enforcement of this regulation. The department shall impose penalties, sanctions or fines as delineated in the Louisiana Insurance Code and collect such fines as necessary for the enforcement of such rules and regulations.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:7, 22:10, 22:658.1, 22:1065.1, 22:1113, 22:1404.3, 22:1191(B), 22:1211, and 22:1214.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 25:708 (April 1999).

§4917. Effective Date

A. This regulation shall become effective on final publication in the April 1999 *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3, 22:7, 22:10, 22:658.1, 22:1065.1, 22:1113, 22:1404.3, 22:1191(B), 22:1211, and 22:1214.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Commissioner of Insurance, LR 25:708 (April 1999).

Chapter 51. Regulation 66—Requirements for Officers, Directors, and Trustees of Domestic Regulated Entities

§5101. Purpose

A. The purpose of this regulation is to require that officers, directors and trustees of domestic regulated entities, as defined herein, file biographical information with the

Commissioner of Insurance for review. The purpose of this review is to determine whether a domestic regulated entity continues to meet minimum licensing standards upon a change in officers, directors or trustees.

AUTHORITY NOTE: Promulgated in accordance with R.S. (L.R.S.) Title 22, Sections 3, 1770, 1811, 1911, 1942, 2014, 3017(B), 1348(B) 1358(B); Title 23, Section 1200.1 and Title 33, Sections 1348(B) and 1358(B).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:78 (January 1999).

§5103. Definitions

A. For the purpose of this regulation the following definitions shall be applicable.

Director—persons designated in the articles of incorporation, by-laws or other organizational documents as such, and persons designated, elected or appointed by any other name or title to act as directors, and their successors.

Domestic Regulated Entity—any Louisiana domiciled entity which is required to obtain a license or certificate of authority from or register with the commissioner. This definition shall specifically include, but is not limited to, stock and mutual insurers, domestic service insurers, non-profit funeral service associations, reciprocal insurers, Lloyd's plans, fraternal benefit societies, automobile service clubs, vehicle mechanical breakdown insurers, property residual value insurers, animal insurers, health maintenance organizations, non-profit beneficiary organizations and risk indemnification trusts, third party administrators, interlocal risk management agencies or any plan of self insurance providing health and accident or workers compensation coverage to employees of two or more employers.

a. This term shall not include insurance agents, agencies, managing general agents, viatical settlement brokers or reinsurance intermediary brokers.

Officer—a president, vice-president, treasurer, actuary, secretary, controller, partner and any other person who performs for the domestic regulated entity functions corresponding to those performed by the foregoing officers. *Officer* shall also include the administrator of a plan of self-insurance providing health and accident or worker compensation coverage to employees of two or more employers.

Trustee—the trustee of a trust, which provides health and accident or workers compensation coverage to employees of two or more employers.

AUTHORITY NOTE: Promulgated in accordance with R.S. (L.R.S.) Title 22, Sections 3, 1770, 1811, 1911, 1942, 2014, 3017(B), 1348(B) 1358(B); Title 23, Section 1200.1 and Title 33, Sections 1348(B) and 1358(B).

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:78 (January 1999).

§5105. Review of Officers, Directors and Trustees by Commissioner Required

A. No person shall serve as an officer, director or trustee of a domestic insurer who has not first submitted the information required by §5107 to the commissioner or to