

**EFFECTIVE JANUARY 1, 2004**

**RULE 1-GENERAL**

These Rules shall be applicable in the General Sessions and Circuit Court of the 14<sup>th</sup> Judicial District.

**RULE 2-PETITIONS FOR APPROVAL OF NEW COMPANY**

- A. The Judge of the Circuit Court shall approve each person or company who petitions the Court for permission to write bonds within this judicial district. The petition shall contain the following information.
1. The business name under which the new company will be operating and the street address and the local business telephone number for the bonding company office.
  2. A copy of the business license issued for the bonding company in said county.
  3. 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 and signatures of those persons who accept personal liability for forfeiture judgments.
  4. A statement of whether the company or any of its owners, shareholders, or partners write bonds in any other jurisdiction. If such company or persons do write bonds in other jurisdictions, the application shall identify those jurisdictions and attach a listing identifying any security posted with that jurisdiction, a copy of the last semiannual reports filed with the said jurisdictions along with a listing of all pending conditional forfeitures and final forfeitures.

5. Identify the funds and source of said funds to be filed with the Clerk to establish the bonding capacity.
  6. For all persons identified in paragraph 4 above attach a sworn statement from each individual stating the following:
    - a. 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 other information required by T.C.A. 40-11-317.
    - b. Describe all relations to any other owner, interest holder or agent of bail bond company authorized to do business in the 14<sup>th</sup> Judicial District.
    - c. A statement as to whether such person has ever been an owner, interest holder or agent for any other bail bond company in this state for any other state.
    - d. A statement as to whether such person is related, by blood or marriage to any person who works for the Circuit Court Clerk or Sheriff of the 14<sup>th</sup> Judicial District.
  7. A copy of the proposed bail bond contract shall be attached.
  8. A statement that the officers/owners of the bonding company and its proposed agent have read and are aware of the requirements of T.C.A. 40-11-301 et seq. And 40-11-404 et seq., pertaining to the Rules Governing Professional Bondsmen and Requirements for Continuing Education, and the Rules of the Court governing bonding companies.
- B.** All petitions for approval of a new company shall be filed in the Circuit Court and a copy served upon the District Attorney General at least two (2) weeks prior to a hearing on the petition. Such hearing shall be held in the Circuit Court. The District Attorney General shall conduct a criminal history and background investigation on the owner of the company and its agents. The results of the background investigation shall be furnished to the Court. The Circuit Court Judge shall conduct a hearing to consider the bonding company's petition. The District Attorney General shall be present at such hearing and represent the State.

### **RULE 3 – COLLATERAL/CAPACITY**

- A. The capacity of each bonding company shall be the total amount of bail, expressed in dollars on which a professional bondsman may act as surety.

- B. The minimum of Fifty Thousand Dollars (\$50,000.00) shall be pledged by each bonding company as a condition precedent to writing bonds in the 14<sup>th</sup> Judicial District.
- C. Any person or company filing a petition for approval to be a professional bail bond company within the 14<sup>th</sup> Judicial District of Tennessee is required to pledge a minimum of \$50,000.00 collateral with the Court.
  - 1. If the collateral is cash or an item easily converted to cash (i.e. Certificate of Deposit) the bonding capacity would be 10 times the amount of the collateral.
  - 2. If the collateral is equity in realty, the capacity would be 10 times the value of the equity.

When Realty is used as collateral, the bonding company must provide a Deed of Trust for said property, a letter of Title Opinion, and a copy of the property assessment.

- D. Upon a judgment of Final Forfeiture, in the event a bonding company fails to satisfy same, the Clerk of the Court may satisfy such Judgment from the posted collateral upon notice to the affected bonding company and the District Attorney General.

#### **RULE 4-FORFEITURES**

- A. A bonding company shall not be allowed total final forfeitures in the Circuit and General Session Courts in excess of fifty percent (50%) of the amount of collateral posted with the Court Clerk.
- B. Bonding companies shall submit a list of all outstanding bonds with the Clerk at the end of each quarter. If the bonding limit is exceeded at the time of the report, the Clerk shall notify the bonding company in writing. Once notice is received, the bonding company shall have ten (10) days to come into compliance or it will be subject to suspension by the Circuit Court from the approved list, and the Clerk shall immediately notify the District Attorney General and the Sheriff of said suspension. The bonding company shall 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 Circuit Judge.

#### **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 Circuit Court 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 a Circuit Court Judge.
- C. Any material changes to the financial statements submitted to the Court must be corrected and filed with the Clerk.
- D. 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 Circuit Judge.

#### **RULE 6- ACTIVITIES OF BAIL AGENTS**

- A. As provided by T.C.A.40-11-126, no bondsman or bonding company shall 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 any place immediately surrounding where prisoners are confined. No bonding company employee or agent shall initiate contact with a defendant or his/her family in order to obtain his/her business. The Sheriff shall post a list of all approved bonding agencies for Coffee County. Contact with a defendant who is a potential client will be allowed only after the bonding company has been contacted by the defendant or someone authorized to act on his/her behalf. All agents or employees of a bonding company shall conduct themselves in accordance with all the rules and orders of the Sheriff of the county wherein the company is authorized to write bonds, while performing required duties within such buildings. Penalty for first violation of this provision is a suspension of not less than ninety (90) days. Penalty for second violation of this provision is a suspension of not less than six (6) months and the offender must re-petition the Court for reinstatement.
- B A bonding company shall notify the defendant/principal of each court appearance. Such representative shall be readily available as needed by a court whenever a defendant fails to appear at the call of the docket.
- C Each agent will be responsible for providing a copy of his/her certificate of compliance for the continuing education credits in compliance with T.C.A. 40-11-401m et seq. to the Clerk of the Court annually. This notice must be provided on or before January 15, 2004 and each year thereafter.

#### **RULE 7- PREMIUMS**

- A. As provided by T.C.A. 40-11-126, no bondsman shall accept anything of value from a principle or anyone acting on his/her behalf except the authorized premium and initiation fees as governed by T.C.A. 40-11-316. All funds or negotiable instruments accepted in payment or in satisfaction of the premium and the initiation fee shall be recorded and itemized by the bonding company. A copy of

said record documenting the premium and initiation fee received shall be provided to the defendant, or the agent acting in the defendant's behalf, and shall be maintained as a part of the ordinary daily business of said company. If funds or negotiable instruments are accepted as collateral, the bonding company shall: (1) deposit such collateral into a separate trust account pending its redemption, (2) shall identify the account or principal to which the collateral applies, and (3) shall provide the person providing the collateral with the identity of the institution in which the collateral is held. In the event that a bail bonding company received funds for a premium or initiation fee and elects not to post the bond for the defendant/principal, then any funds received shall be immediately returned to the defendant or the person acting on the defendant's behalf. If a bondsman surrenders a defendant the amount, if any, to be refunded to the defendant shall be determined by the court on a case by case basis.

- B. Every bondsman and/or agent must use a duplicate receipt book to record all payments for premiums. A copy of the receipts 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. Signature of the defendant or the person acting on his/her behalf tendering the said funds.
- C. No bond in excess of Seventy-five Thousand Dollars (\$75,000.00) shall be made without a hearing before the Circuit Court to determine compliance with these rules and the provisions of T.C.A. 39-11-715 pertaining to the source of said bond.

#### **RULE 8 – REPORTS AND REQUIRED RECORDS**

- A. It shall be the responsibility of the bonding company that all bonds shall be fully completed upon the release from custody of the defendant/principal on bond. The bail bond contracts shall:
  - 1. Have the name, address and zip code number of the defendant legibly printed thereon,
  - 2. Be signed by the agent making said bond,
  - 3. Have the name of the bonding company boldly and legibly stamped or printed thereon,
  - 4. Identify the property used to pay the premium and initiation fee as well as any other property received as collateral for said bond, 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 \$50,000.00 or above.
- B. Any bonding company authorized by the Circuit Court shall file with the Court Clerk a semi-annual financial report pursuant to T.C.A. 40-11-303. Such reports shall 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 must be furnished annually. Continuing education must be completed between January and December of each year. Credit will be given for the year in which the certificate is received.
- C. Upon the failure of any company to file this report, or any other record or document required by the statute or these local rules, the Court Clerk shall notify the Circuit Court Judge who shall suspend and remove the company from the approved list. In such an event, the company shall not be allowed to write any bonds until such time as all the requirements are met and there have been approval, in writing, from the Circuit Court Judge. In the event the bonding company disputes the suspension, it may petition the Court to reconsider the suspension.

#### **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, shall 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. For good cause, the Court may issue a restraining order, writ or other process without notice to the company if deemed necessary in the public interest. Any such action will be reviewed at a hearing within five (5) days after notice to the company and the District Attorney General who shall represent the State at the hearing.

- 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 bondman 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. Has a final judgment of forfeiture entered against the bonding company that remains unsatisfied which the agent authorized.
  3. Has failed to comply with any local rules, or
  4. 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, jailer, police 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; paying a fee or rebate or giving anything of value to an attorney in bail bond matters, except in legal representation of any action pertaining to the bail bond company or action.
    - d. Surrendering a Principal without good cause;
    - e. Accepting anything of value from a principal except the premium provided, however, that the bondsman shall be allowed to collect collateral, security or other indemnity required by bondsman if reasonable in relation to the amount of the bond and where the said bondsman is reasonable in relation to the amount of the bond and where the said bondsman accepting such collateral delivers a written receipt for the same which receipt described in detail the collateral received and the term of redemption;
    - f. Accepts anything of value as payments 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 in an amount of Ten Thousand Dollars (\$10,000.00) or greater, pursuant to T.C.A. 40-11-122 shall submit a current title opinion for said real property reflecting the encumbrances thereon as well as a Deed of Trust for said property. 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 Office of the Court Clerk. If the amount of the bond exceeds Seventy-Five Thousand Dollars (\$75,000.00) then the bond must be made after notice to the District Attorney General and a hearing in open court pursuant to T.C.A. 39-11-715 pertaining to the source of the bond funds.
- B. Any individual who desires to deposit a cash bond with the Clerk pursuant to T.C.A. 40-11-118 shall be notified in writing by the Clerk that such cash deposit shall be returned less any fines, court costs or restitution as ordered by the Court. No cash bond may be received in the amount of Ten Thousand Dollars (\$10,000.00) or more without notice to the District Attorney General and a hearing in open court pursuant to T.C.A. 39-11-715 pertaining to the source of the bond funds.
- C. Each defendant shall provide to the Clerk before release on a property or cash bond, an address where notification of a court date may be delivered. It shall be the responsibility of the defendant to notify the Clerk of any change of address.

#### **RULE 11- OFFICIAL LIST OF AUTHORIZED BOND COMPANIES**

- A. A petition for writing bail bonds shall be filed with the Clerk of the Circuit Court, if approved, the order approving the bonding company shall be filed with said Clerk and the name, address and phone number of said company is to be placed on the official list of bonding companies approved for that county. A certified copy of the list shall be mailed to the Sheriff stating said bonding company is authorized to write bonds.

#### **RULE 12 – AMENDMENTS**

These rules may be amended from time to time by the Circuit Court Judge. Upon amendment, the Circuit Court Clerk shall notify all approved bonding companies in the 14<sup>th</sup> Judicial District, the District Attorney General and the Sheriff. Upon receipt of notice, all bonding companies shall comply with said amendments.