

# **REGULATION OF BAIL BONDSMAN AND BAIL BONDS COMPANIES**

## **SECTION 1. PURPOSE**

The purpose of this Rule and Regulation ("rule") is to set forth specific requirements that should be followed by individual bail bondsman and bail bond companies engaged in the bail bond business in the Territory of the United States Virgin Islands pursuant to the V.I. Code Ann. Title 22 of Section 752.

## **SECTION 2. SCOPE**

This regulation shall apply only to bail bondsman and bail bond companies acting on behalf of a licensed surety insurer and a surety insurer involved in the sale of bail bond insurance.

## **SECTION 3. AUTHORITY**

This rule is issued pursuant to the authority vested in the Commissioner of Insurance under V.I. Code Ann. Title 22 of Section 53(c)(1) and all other applicable provisions of Virgin Islands law.

## **SECTION 4. LICENSED REQUIRED**

(a) No person or entity shall advertise or hold himself out as engaging in the business of executing, delivering, or furnishing bail bonds or the undertakings of bail, without holding at the time thereof all proper licenses required by this rule.

(b) The definition of bail bond business shall not include individuals employed solely for the performance of clerical, stenographic, investigative or other administrative duties if the employee's compensation is not related to the number of bail bonds written. Notwithstanding the foregoing, no person whose bail bondsman license has been revoked may be employed by a bail bond company in any capacity.

(c) Exception may be granted by the Commissioner, if the Commissioner entered a specific finding of fact in the matter that the licensee was not personally at fault and did not acquiesce in the matter on account of which the company license was revoked.

## **SECTION 5. SOLICITATION**

(a) An insurer shall not execute an undertaking of bail except by and through a person holding a bail bond agent or solicitor license issued as provided in this rule. A person shall not in this Territory solicit or negotiate in respect to execution or delivery of an undertaking of bail bond by an insurer, or

execute or deliver such an undertaking of bail bond unless licensed as provided in this rule, but if so licensed, such person may so solicit, negotiate, and effect such undertakings.

(b) For purposes of this section, "solicit" shall include any written or printed presentation or advertising made by mail or other publication, or any oral presentation or advertising by means of telephone, radio, or television which implies that an individual is licensed under this rule, and any activity in arranging for bail which results in recompense to the individual conducting that activity.

#### **SECTION 6. DEFINITION**

(a) As used in this chapter, the term "bail bond insurance" is defined in V.I. Code Ann. Title 22 of Section 459.

(b) "Bail bond agent" or "bail agent" means an individual who is appointed by an insurer through a notice of appointment from the insurer to execute or countersign bail bonds in connection with judicial proceedings and who receives or is promised monies or other things of value for that service.

(c) "Premium" shall mean the money paid to a bail bondsman or a bail bond company for release of an arrestee

(d) "Company" shall mean a bail bond company.

(e) "Bail bond" shall mean a bond for a specified monetary amount executed by the defendant or principal and a licensed agent or solicitor which is issued to a court, magistrate, or authorized officer as security for the subsequent appearance of the defendant upon his release from actual custody pending the appearance during the adjudication of a criminal case.

(f) "Qualifying Power of Attorney" is a form issued by a surety insurer, specifying any applicable limitations and the agents that are authorized to execute and bind the company to a bail undertaking.

(g) "Qualifying Agent" shall mean a person who is licensed and responsible for the supervision or the management of the business and business practice and is an owner, general partner, a major stockholder, or a manager or a full time employee with a written power of attorney.

(h) "Stacking" shall mean executing more than one bond to avoid exceeding a bail bondsman's current Qualifying Power of Attorney.

#### **SECTION 7. LICENSING**

Bail Bond Agents and Solicitors

(a) Bail licenses include:

1. Bail bond agents' licenses; and
2. Bail bond solicitors' licenses.

(b) A bail bond agent's license permits the licensee to solicit, negotiate, and affect undertakings of bail on behalf of any surety insurer while there is in effect an unrevoked notice of appointment of such insurer filed pursuant to the V. I. Code Ann. Title 22 of Section 753. Such license shall not be issued unless and until there is filed with the Commissioner a bond in favor of the people of the Territory of the Virgin Islands, executed by an authorized admitted surety insurer, in the sum of not less than Ten thousand dollars (\$10,000).

(c) The Commissioner shall not license a business entity as a bail bond agent unless each individual to be empowered and designated in the license to exercise the power conferred under the license is individually licensed as a bail bond agent in accordance with V.I. Code Ann. Title 22 of Section 760.

(d) A bail bond solicitor's license permits the licensee to transact bail on behalf of and as the employee of a licensed bail bond company, while there is in effect and on file with the Commissioner an unrevoked appointment of the solicitor by the company, in accordance with V.I. Code Ann. Title 22 of Section 768. In all matters respecting the transaction of bail, it shall be conclusively presumed that such solicitor acted on behalf of and pursuant to the instructions of the appointing license bail bonds company.

(e) A licensed bail bondsman must carry a current copy of the company's license, his/her bail bondsman license and a current copy of his/her Qualifying Power of Attorney and must present same when initiating a bail bond if documents are requested by the Commissioner. In the event the Qualifying agent is no longer with the company, written notice must be given within 10 days and another Qualifying Agent must be designated within 15 days of the vacancy.

(f) The signature of the bail bondsman issuing the bond must be affixed to the bond. Bonds shall not be pre-signed by the bail bondsman nor shall any licensee sign another bail bondsman's name.

(g) Any licensed bail bondsman or licensed bail bond company who permits any person not so licensed to solicit or engage in the bail bond business on his/its behalf or any bail bondsman who permits any bail bond to be executed to effect the release of a defendant without being physically present shall be deemed in violation of this rule.

#### **SECTION 8. APPLICATION FOR BAIL LICENSE**

An applicant for bail bond license shall file with the Commissioner an application in such form and having such supporting documents as the Commissioner prescribes. The

Commissioner shall investigate the licensees in such manner and in respect to such matters as he deems advisable.

#### **SECTION 9. AGENTS - APPOINTMENT**

Every applicant for a license to act as a bail bond agent must file with the Commissioner a notice of appointment, in such form as the Commissioner prescribes, executed by an admitted surety insurer or its authorized representative authorizing such applicant to execute undertakings of bail and to solicit and negotiate such undertakings on its behalf. Additional notices of appointment may be filed by other surety insurers, upon the payment for each appointment and statement of agreement, before such license is issued and thereafter, as long as such license remains in force. Each appointment shall, by its terms, continue in force until:

- (a) Termination of the bail bond agent's license;
- (b) The end of the license year, if the fee provided for the notice of appointment and statement of agreement is not paid; or
- (c) The filing of a notice of termination by the insurer, its representative, or by such bail bond agent.

#### **SECTION 10. SOLICITORS-APPOINTMENT**

A bail bond solicitor's license shall not be issued until there is filed with the Commissioner a notice of appointment of such solicitor, in such form as the Commissioner prescribes, effective upon issuance of the license executed by the holder of a bail bond agent's license. Such appointment shall state that the license holder appoints the solicitor and will employ him in the transaction of bail, until notice is filed with the Commissioner revoking the appointment. Such appointment and license shall permit the bail bond solicitor to transact only the undertakings of bail bond which the license or licenses of the appointing license holder permits such licensee to transact.

#### **SECTION 11. AGENT**

- (a) Natural persons can be licensed under this Section.
- (b) A license may be held by a corporation, in which case all of the following requirements shall be met:
  - 1. The application shall set forth the names of all officers and employees of the licensee who will be authorized to exercise the powers of the licensee under this Rule. Each of those persons shall be required to meet the requirements for licensure under this chapter, and disciplinary action may be taken against any of

those persons, and the licensee, if any of those persons do any act that would be grounds for disciplinary action against a licensee.

2. The corporation may solicit or negotiate the execution or delivery of bail on behalf of surety insurers only through natural persons who hold individual licenses as bail bond agents.
3. One hundred percent of the shares of the corporation shall be held by licensed bail bond agents.
4. All shareholders, officers, and directors of the corporation shall be licensed bail bond agents, and shall be disclosed to the department.
5. Any sale or transfer of stock or other interest in the corporation shall require the prior approval of the Commissioner. The Commissioner shall approve or disapprove a request for approval within 60 days of receiving the completed request.

#### **SECTION 12. PLACE OF BUSINESS**

Each bail bond agent shall have and maintain a place of business in this Territory that is accessible to the public and where the bail bond agent principally conducts transactions under the agent's license.

#### **SECTION 13. OPEN FOR INSPECTION; RECORD**

(a) A bail bond agent shall keep at the agent's place of business the usual and customary records pertaining to transactions made under the license. The licensee shall keep all records as to any particular transaction available and open to the inspection of the Commissioner at any reasonable business time during the five years immediately after the date of completion of the transaction.

(b) As a minimum requirement for permanent office records, each bail bond agent who is engaged in the bail bond business shall maintain a daily bond register that is the original and permanent record of all bonds or undertakings executed by the licensee and that states:

- (1) the number of the Qualifying Power of Attorney form
- (2) Date the bond was executed
- (3) Name of principal
- (4) Amount of bond
- (5) Premium charged
- (6) Premium reported to the surety company
- (7) Security or collateral received
- (8) Date the security or collateral was received and the date released

- (9) Indemnity agreements
- (10)Disposition of the bond
- (11)Date of Disposition

(c) Each bail bond agent who is engaged in the bail bond business and who accepts monies or any other consideration for any bail bond undertaking shall for each payment received give to the person paying the monies or giving the consideration a pre-numbered receipt as evidence of payment. The receipt must state the date, the name of the principal, a description of the consideration or amount of monies received and the purpose for which received, the number of the Qualifying Power Of Attorney Form attached to the bond, the penal sum of the bond, the name of the person making the payment or giving the consideration and the terms under which the monies or other consideration shall be released. Each bail bond agent shall retain a duplicate copy of each receipt issued as a part of the agents' record.

#### **SECTION 14. RECORD RETENTION**

All records required herein shall be maintained for a period of five (5) years at the principal place of business. If the records are to be kept at a location other than the physical address on file at the Division, such address must be submitted to the Division in writing for approval with a notation of the address where the records are to be maintained.

#### **SECTION 15. QUALIFYING POWER OF ATTORNEY FORM**

(a) Each company, upon either an initial or renewal application for a company license, must submit to the Commissioner a Qualifying Power of Attorney from the insurer, specifying the authority limits of each of its agents acting on its behalf.

(b) A new Qualifying Power of Attorney must be submitted to the Commissioner immediately for any increases, decreases or other changes made between licensing periods.

(c) The original Qualifying Power of Attorney increase signed by the bail bondsman/attorney-in-fact, must be received by the Commissioner prior to a bail bondsman initiating a bond for the increased amount.

(d) Qualifying Power of Attorney increases shall not be submitted for the purpose of allowing a bail bondsman to write a bond that violates his/her existing Qualifying Power of Attorney or with the intent of reversing the increase subsequent to the bond being written.

(e) The Qualifying Power of Attorney shall be executed in such form as the Commissioner prescribes.

(f) All licensed bail bondsmen shall, at any time they are writing bonds, carry a current copy of their Qualifying Power of Attorney that is on file with the Division

(g) Only one Qualifying Power of Attorney per bond, not exceeding the bail bondsman's Qualifying Power of Attorney per insurer, is allowed, unless a court has separated the charges and amounts of bonds. Qualifying Power of Attorney shall not be stacked.

**SECTION 16. LICENSURE NUMBER**

(a) Upon issuance of a license to a bail bond company, the Commissioner shall assign a licensure number that will be exclusive to that company. For each individual licensee of that company, the Commissioner will also assign a licensure number.

(b) The Company licensure and individual licensure numbers shall be printed sequentially in the upper right hand corner of all bail bonds, Qualifying Powers of Attorney, statements of bail and premium receipts executed by the licensee.

**SECTION 17. QUARTERLY REPORTS**

A. Every company shall file with the Commissioner a quarterly report. The report shall be made in such form as the Commissioner prescribes. Bonds shall be listed in sequential number order.

B. The quarterly report due dates are as follows:

Period Covered	Due Date
January 1 - March 31	May 1 <sup>st</sup>
April 1 - June 30	August 1 <sup>st</sup>
July 1 - September 30	November 1 <sup>st</sup>
October 1 - December 31	February 1 <sup>st</sup>

C. Quarterly reports must be received by the Commissioner on the due dates.

D. Companies may request an extension of time for filing a Quarterly Report by submitting a written request to the Commissioner. Such request must be received in advance of the due date, and must be for good cause shown.

E. If the quarterly report is not received as required by Subsection "C" above and no extension has been granted pursuant to Subsection "D" above, the offending company will be prohibited from doing any business in the Virgin Islands until such quarterly reports are filed.

F. A penalty of One Hundred (\$100.00) Dollars per day with a maximum amount of one thousand (\$1,000.00) Dollars will be assessed until the report is received, beginning the day after

the report is due.

G. The company license will be reinstated upon the payment of said penalty.

#### **SECTION 18. SUSPEND REVOKE OR REFUSE TO RENEW**

(a) The Commissioner may suspend, revoke or refuse to issue any license under this Rule in accordance with V.I. Code Ann. Title 22 of Section 789 whenever it is made to appear to him that the holder of such license is not a fit or proper person to be permitted to continue to hold or receive such license and has violated any provisions of this Rule.

(b) The Commissioner may suspend or revoke any bail license for any cause for which he could deny such license.

(c) The Commissioner shall not suspend or revoke any license, issued under this Rule, without first granting a hearing, upon reasonable notice to the applicant, except that he may temporarily suspend any such license for a period not exceeding ten (10) days pending such hearing. Where a hearing is held under this Rule the proceedings shall be conducted in accordance with Chapter 7, Title 22, V.I. Code and the Commissioner shall have all the powers granted therein.

#### **SECTION 19. LICENSE DENIAL**

The Commissioner may decline to issue a bail license until he is satisfied that:

- (a) The applicant is of good business reputation and of good general reputation.
- (b) That the applicant has never been refused a license or had a license revoked by any public authority for reasons which indicated lack of honesty or integrity, or which show improper business practice on the part of the applicant.
- (c) That the applicant has an understanding of the obligations and duties of bail.
- (d) That the applicant has not participated in or been connected with any business transaction which, in the opinion of the Commissioner tends to show unfitness to act in a fiduciary capacity or to maintain the standards of fairness and honesty required of a trustee or other fiduciary.
- (e) That the applicant has not willfully misstated any material fact in his application or procured a misstatement in the supporting documents thereof.
- (f) That there is no outstanding judgment against the applicant of a conviction of a misdemeanor or felony denounced by Virgin Islands Code, or one of the

elements of which involves a misappropriation of money or property.

- (g) That the applicant has not committed an act forbidden by Virgin Islands Code.
- (h) That the applicant is a fit and proper person to hold the license applied for.

#### **SECTION 20. LICENSE PERIOD**

(a) All licenses issued under this Rule shall be for a license period of one (1) calendar year, said length never to exceed one year.

(b) Such licenses may be issued for the entire year, or upon application made during any period for the balance thereof, with the expiration being December 31<sup>st</sup> of each year.

#### **SECTION 21. RENEWAL**

(a) Applications for renewal of licenses shall be filed on or before January 1st of each year upon payment of the fees for licensure specified in Section 601 of Title 22.

(b) Upon failure to file such application as provided in subdivision (a), the license shall expire on December 31<sup>st</sup>.

(c) No application shall be deemed filed within the meaning of this section unless the document itself has been actually delivered to the Commissioner, and the proper fee for its filing has been paid to the Commissioner during office hours, or unless both such document and fee have been filed and remitted.

#### **SECTION 22. LICENSURE REQUIREMENTS OF BAIL BOND AGENTS**

A. Each applicant for a bail bond agent's license or license renewal shall file with the application and shall maintain in force while licensed a bond in favor of people of the Territory. The bond may be continuous in form and total aggregate liability on the bond shall be at least Ten Thousand (\$10,000) Dollars. The applicant shall place the bond on deposit with the Commissioner. The bond shall be conditioned on full accounting and due payment to the person entitled to the bond or monies coming into the bail bond agent's possession as an incident to bail bond transactions under the license.

B. The bond remains in force until released by the Commissioner or until cancelled by the surety. Without prejudice to any liability previously incurred, the surety may cancel the bond on thirty days' advance written notice filed with the Commissioner.

#### **SECTION 23. RELEASE OF DEPOSIT**

The former holder of any bail bond license, who has surrendered any and all licenses to the Commissioner, and who has on deposit with the Commissioner a bond may, not sooner than six months after the surrender of his last bail license apply to the Commissioner for the return of the securities.

#### **SECTION 24. APPLICATION FOR RELEASE OF DEPOSIT**

(a) The application shall be in writing and shall state:

1. The nature of all bail licenses held by the applicant and the period during which the applicant was authorized to transact bail business under each;
2. That all bail transacted by applicant, and his solicitors and employees, if any, has been exonerated by order of court, and that his liability as surety on all bail transactions has been discharged;
3. The date upon which the last liability of the applicant on a bail transaction was fully exonerated and discharged;
4. That all moneys collected or received by the applicant, and his solicitors and employees, if any, have been paid to the person or persons entitled thereto and have in all respect been fully and properly accounted for.

#### **SECTION 25. PUBLICATION**

(a) The Commissioner shall publish daily for one week in a newspaper of general circulation in the jurisdiction in which the applicant transacted bail under any license, a notice of the application to withdraw the securities deposited with the Commissioner in lieu of the bond. The expense of the publication shall be borne by the applicant and the Commissioner may require the applicant to pay it in advance.

(b) Upon failure of the applicant to pay the expense of publication of notice within 30 days after the presentation of the bill, the Commissioner shall collect the costs out of the deposited securities.

#### **SECTION 26. EXAMINATION**

(a) The Commissioner shall make an examination of the books and records of the applicant in accordance with V.I. Code Ann. Title 22 of Section 104(b). The costs and expenses of the examination may be borne by the applicant.

(b) If the Commissioner is satisfied from the application and the examination of the books and records of the applicant that the applicant has, in fact, complied with the representations made in his application, the Commissioner shall deliver to the applicant the securities deposited; provided, however, the

Commissioner shall not deliver the securities to the applicant prior to the expiration of six (6) months after the latest date on which a bond was issued or written by the applicant.

#### **SECTION 27. REFUND OF PREMIUM**

The principal shall be entitled to a refund of his premium when the arrestee is surrendered by his bail bondsman at any time prior to the final termination of the liability of the bond provided that the arrestee has not committed any of the following:

- A. Left the jurisdiction of the court without written consent of the court for a period in excess of twenty-four (24) hours;
- B. Moved from his place of residence without notifying his bail bondsman;
- C. Was arrested for an offense other than a traffic violation;
- D. Violated any substantive provision in the bail bond contract. The principal shall be entitled to a refund of his premium when the bail bondsman fails to secure the defendant's release from actual custody.

The principal shall be entitled to a refund of his premium when the bondsman fails to secure the defendant's release from actual custody.

#### **SECTION 28. ALLOWABLE CHARGES**

- A. The premium allowed is the maximum amount a bail bondsman may charge for writing a bond.
- B. The following separate charges are not allowable and shall not be charged by a company or any licensee:
  - (1) Operating expenses
  - (2) Mileage
  - (3) Telephone calls
  - (4) Photo fees
  - (5) Postage
  - (6) Extra personnel fees
  - (7) Prepaid recovery expenses
- C. Allowable charges do include any expenses such as filing fees for documents or other fees that are expenses incurred by the person executing any documents in order to procure coverage by a bail bond.
- D. Any rebating or discounting of premiums by any company or licensee is strictly prohibited.

#### **SECTION 29. UNLAWFUL REBATES**

The provisions of law relating to unlawful rebates shall not apply to commissions or other consideration paid or exchanged between licensees under this chapter, except that in such case the licensee who executes the undertaking or executes or delivers the bail bond shall, in all matters in respect thereto, be deemed the principal and all licensees otherwise connected with the transaction shall be deemed his agents in respect thereto.

### **SECTION 30. FORFEITURES; MISREPRESENTATIONS**

No bail bondsman shall purposely make any misleading or untrue representations to any court or to any public official for the purpose of avoiding or preventing a forfeiture of bail or setting aside a forfeiture that has already occurred.

### **SECTION 31. UNPAID FORFEITURES AND MISCONDUCT; LICENSE SANCTIONS**

A. If it is found that any licensee has been found guilty of misconduct or malfeasance and upon notice from the aggrieved party of damages due to the licensee's misconduct, the Commissioner may notify the licensee by mail of the claim.

- (1) If the verified amount due the aggrieved party is not paid within twenty (20) days of issuance of notice, the Commissioner may suspend the license and immediately withdraw the allowable amount from the posted bond.
- (2) The license of the offender shall remain suspended until the amount of damage is paid.
- (3) If the amount remains unpaid after suspension, the Commissioner may order a hearing for the licensee to show cause why his license should not be revoked.
- (4) Any company whose license is revoked by the Commissioner pursuant to a show cause hearing must immediately discontinue operations. Telephone service shall be disconnected, signs and other forms of advertising and communication should be removed and/or terminated and the offices locked.

B. When a final civil judgment of forfeiture is entered as to a bail bond issued by a licensee by a court of competent jurisdiction and the judgment is not paid. If the forfeiture judgment remains unpaid for ten (10) days following issuance of notice, the Commissioner may administratively suspend the license and make claim against the licensee's bond up to the allowable amount of ten thousand dollars (\$10,000.00).

### **SECTION 32. BAIL BOND AGENT PROHIBITIONS**

A. A bail bondsman agent shall not:

1. Suggest or advise the employment of or name for employment any particular attorney to represent the agent's principal.
2. Solicit business in or around any place where prisoners are confined or in or around any court.
3. Receive or collect for an attorney any monies or other items of value for any attorney fee, cost or other purpose on behalf of an arrestee, unless a receipt is given.
4. For any purpose, directly or indirectly, enter into an arrangement of any kind or have an understanding with any person to inform or notify any bail bond agent directly or indirectly of any of the following:
  - (a) The existence of a criminal complaint.
  - (b) The fact of an arrest.
  - (c) The fact that an arrest of any person is pending or contemplated.
  - (d) Any information pertaining to matters described in this paragraph or to the persons involved.
5. Participate in the capacity of an attorney at trial or hearing of a person on whose bond the bail bondsman is the agent.
6. Accept anything of value from a principal except the premium and expenses. The bail bond agent may accept collateral security or other indemnity from the principal or on behalf of the principal that the bail bond agent shall return on final termination of liability on the bond unless the collateral has been forfeited because the defendant did not appear in court. The collateral security or other indemnity required by the bail bond agent must be reasonable in relation to the amount of bond.
7. Give, authorize, sign or countersign in blank any power of attorney unless the authorized person is a licensed bail bondsman agent directly employed by the bail bond agent giving the power of attorney.
8. Advertise as or claim to be a surety company, if a bail bondsman.
9. Employ or assist in the employment of any person who has been convicted in any jurisdiction of theft or any felony or of any crime involving carrying or the possession of a deadly weapon or dangerous instrument. This paragraph does not apply to a person whose felony conviction has been set aside or whose civil rights have been restored because of a felony conviction, except for a conviction of theft or of any crime involving carrying or the possession of a deadly weapon or dangerous instrument.

B. Law enforcement, adjudication and prosecution officials and the officials' employees, and attorney-at-law authorized to admit to bail and officers of the court shall not be bail bondsman agents and shall not directly or indirectly receive any benefits from the execution of any bail bond. This section does not prohibit a bail bond agent from hiring counsel or asking assistance of a law enforcement officer.

C. In any bail transaction or in connection with any bail transaction, a bail bond agent shall not directly or indirectly charge or collect monies or other valuable consideration from any person except for the following purposes:

1. To pay the premium at the rate that are established by the surety insurer and that are approved by the Commissioner.
2. To provide collateral.
3. To be reimbursed for actual and reasonable expenses incurred in connection with the individual bail transaction.

### **SECTION 33. CERTIFICATION OF LICENSURE OF AGENTS AND SOLICITORS**

(a) The Commissioner shall certify the names of holders of bail bond agents' and their solicitors' license annually to every clerk of the Territory, together with their license numbers and any other information in respect to the persons as he or she considers advisable. He or she shall promptly upon termination, for any cause, of any license, notify the respective clerks.

(b) The clerk shall retain these records for a period of five years, after which time the active bail licensee list and updates may be destroyed.

### **SECTION 34. PRIMA FACIE EVIDENCE**

The certificate of the Commissioner certifying any facts found after hearing held under this chapter shall be prima facie evidence of the facts set forth therein.

### **SECTION 35. BAIL BOND COMPLAINT FORM AND PROCEDURE**

A. Complaints may be filed and hearings may be conducted pursuant to Chapter 7, Title 22 of the V.I. Code.

B. Any person desiring to make a complaint concerning an alleged violation by any company or bondsman shall use the bail bond complaint form. A copy of the complaint form may be obtained from the Insurance Commissioner's Office.

C. The form must be signed by the complainant.

### **SECTION 36. COMPLAINT, COOPERATION REQUIRED**

A. All complaints will be investigated by the Examiners at the

Insurance Commissioner's Office.

B. Every bail bondsman and company shall promptly respond to all correspondence, requests for information, or otherwise, directed to the bondsman or company by the Commissioner or designated employee thereof. Every licensed bail bondsman and/or company shall fully cooperate with any examination or investigation conducted by the Insurance Commissioner's Office.

C. Failure on the part of any company or its licensees to make all financial and business records available for inspection or examination upon request by the Commissioner, or failure to otherwise cooperate, may be grounds for a hearing and/or suspension of license.

### **SECTION 37. HEARINGS, REVOCATION OR SUSPENSION OF LICENSE**

A. All hearings shall be conducted in the manner prescribed in Chapter 7, Title 22, V.I. Code.

B. The Commissioner may hold a formal hearing for any purpose within the scope of this title as he may deem necessary in accordance with V.I. Code Ann. Title 22 of Section 151. The Commissioner may also hold a formal hearing at the request of the Company and bail bondsman upon receiving a written request. At the discretion of the Commissioner, the Director of Banking and Insurance may hold informal hearings in reference to a complaint.

C. The Commissioner may subpoena witnesses; administer oaths and affirmations; examine any individual under oath; require and compel production of books, papers, contracts and other documents in accordance with V.I. Code Ann. Title 22 of Section 104. Subpoenas of witnesses shall be served by certified mail or in person.

D. If any individual fails to obey a subpoena, duly issued and served, with respect to any matter concerning which he or she may be lawfully interrogated, the Commissioner may apply to the Superior Court of the Virgin Islands which may issue an order requiring the individual to comply with the subpoena and to testify. Failure to obey the order of the court may be punished by the court as contempt thereof.

E. Any person willfully testifying falsely under oath to any matter material to any examination, investigation, or hearing shall, upon conviction, be guilty of perjury and punished accordingly.

F. Notice of the time and place of the hearing, stating the matters to be considered shall be given not less than ten (10) days in advance.

G. The Division shall allow any party to the hearing to appear in person and by counsel, to be present during the giving of all

evidence, to have a reasonable opportunity to inspect all documentary evidence and to examine witnesses, to present evidence in support of his or her interest, and to have subpoenas issued by the Commissioner to compel attendance of witnesses and production of evidence in his or her behalf.

H. The Commissioner may suspend for up to twelve (12) months or revoke or refuse to continue any license, if after notice and hearing the Commissioner determines that the licensee or any member of a company has violated any provision of Title 22 of the V.I. Code.

I. The act or conduct of any bondsman who acts within the scope of the authority delegated to him shall be deemed the act or conduct of the company for which the bondsman is acting as agent.

J. If the Commissioner finds that one (1) or more grounds exist for the suspension or revocation of any license, the Commissioner may request that formal prosecution be made against the person with the Attorney General's Office in accordance with V.I. Code Ann. Title 22 of Section 55.

K. If the Commissioner finds that one (1) or more grounds exist for the suspension or revocation of any license and that the license has been suspended within the previous twenty-four (24) months, the license shall be revoked.

L. The Commissioner may not again issue a license to any person or entity whose license has been revoked.

M. If the Commissioner or its designee determines that the public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in its order, a summary suspension of a licensee may be ordered pending an administrative hearing before the Commissioner, which shall be promptly instituted.

N. If a company license is suspended or revoked, no member of the company or officer or director of the corporation shall be licensed or be designated in any license to exercise the powers thereof during the period of suspension or revocation, unless the Commissioner determines upon substantial evidence that the member, officer, or director was not personally at fault and did not acquiesce in the matter on account of which the license was suspended or revoked.

O. A person may appeal from any order of the Commissioner as a matter of right. The appeal shall be taken to the Superior Court of the Virgin Islands by filing written notice of appeal to the Court and by filing a copy of the notice with the Commissioner within thirty (30) days after issuance of the order by the Commissioner in accordance with V.I. Code Ann. Title 22 of Section 160. Such appeal shall be taken to the Superior Court

of the Virgin Islands only from an order refusing a hearing or an order on hearing.

P. Within thirty (30) days after the filing of the copy of the notice of appeal with the Commissioner, the Commissioner shall make, certify and deposit in the office of the clerk of the court in which the appeal is pending a full and complete transcript of all proceedings had before the Commissioner and all evidence before the Commissioner in the matter, including all of the Division's files therein in accordance with V.I. Code Ann. Title 22 of Section 161.

#### **SECTION 38 DISPLAY OF LICENSE**

Every bail license shall be prominently displayed in the place of business of the licensee in accordance with V.I. Code Ann. Title 22 of Section 783

#### **SECTION 39. CHANGE OF ADDRESS**

A licensee or applicant for a license under this chapter shall provide the Commissioner, in writing, 10 days notice prior to any change of its place of business which is on file with the Office of the Commissioner.

#### **SECTION 40. TRUST ACCOUNT**

(a) All companies which execute undertakings of bail shall keep any monies collected from its agents licensed pursuant to this rule as buildup or reserve funds in segregated trust accounts within the Territory. These accounts shall be maintained as any of the following:

1. A Federal Deposit Insurance Corporation (FDIC) insured account.
2. United States government bonds and treasury certificates or other obligations for which the faith of the United States is pledged for the payment of principal and interest.
3. Repurchase agreements collateralized by securities issued by the United States Government.
4. A money market fund that limits its portfolio to the following eligible securities, negotiable certificates of deposit (CDs), bankers acceptances, U.S. Treasury bills, commercial paper, municipal notes, federal funds and repurchase agreements (repos), unless the Commissioner within his discretion provides otherwise.
5. The accounts described in this section shall not be hypothecated or offered as collateral.

(b) The accounts described in this section shall be used to satisfy the unfulfilled obligations of the undertakings of bail written by the agents from whom the moneys have been collected and to otherwise satisfy the unfulfilled obligations which may be owing to the surety by those agents.

**Section 41. ADVERTISING**

- A. All Advertising shall prominently display the company name.
- B. There will be no fictitious names used in the bail bond business. All advertising must be in the name listed on the license of the bail company only.

**Section 42. SEVERABILITY**

Any section or provision of this rule held by the court to be invalid or unconstitutional will not affect the validity of any other section or provision.