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**IDAPA 18
TITLE 01
CHAPTER 04**

18.01.04 - RULES PERTAINING TO BAIL AGENTS

000. LEGAL AUTHORITY.

This rule is promulgated pursuant to the authority vested in the director under Sections 41-211 and 41-1037 through 41-1045, Idaho Code. (4-7-11)

001. TITLE AND SCOPE.

01. Title. This rule shall be cited in full as Idaho Department of Insurance Rule IDAPA 18.01.04, "Rules Pertaining to Bail Agents." (4-7-11)

02. Scope. The provisions of this rule shall apply to all bail agents, as defined by Section 41-1038, Idaho Code. This rule is supplementary to other rules and laws regulating insurance producers, and all other rules of the department and provisions of title 41, Idaho Code, applicable to insurance producers shall also apply to bail agents. (4-7-11)

002. WRITTEN INTERPRETATIONS.

In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency may have written statements which pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. These documents will be available for public inspection and copying at cost in the main office and each regional or district office of this agency. (4-7-11)

003. ADMINISTRATIVE APPEALS.

All administrative appeals shall be governed by Title 41, Chapter 2, Idaho Code, the Idaho Administrative Procedures Act, Title 67, Chapter 52, Idaho Code, and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General - General provisions." (4-7-11)

004. INCORPORATION BY REFERENCE.

There are no documents incorporated by reference. (4-7-11)

005. OFFICE -- OFFICE HOURS -- MAILING ADDRESS, STREET ADDRESS AND WEB ADDRESS.

01. Office Hours. The Department of Insurance is open from 8 a.m. to 5 p.m. except Saturday, Sunday and legal holidays. (4-7-11)

02. Mailing Address. The department's mailing address is: Idaho Department of Insurance, P.O. Box 83720, Boise, ID 83720-0043. (4-7-11)

03. Street Address. The principal place of business is 700 West State Street, 3rd Floor, Boise, ID 83720-0043. (4-7-11)

04. Web Site Address. The department's [website](#). (4-7-11)

006. PUBLIC RECORDS COMPLIANCE.

Any records associated with these rules are subject to the provisions of the Idaho Public Records Act, Title 9, Chapter 3, Idaho Code. (4-7-11)

007. -- 011. (RESERVED).

012. NOTIFICATION REQUIREMENTS.

01. Notice of Changes Required. A bail agent licensed pursuant to Section 41-1039, Idaho Code, shall immediately notify the Department of Insurance in writing of any the following: (4-7-11)

- a. Change of bail agent's name; (4-7-11)
- b. Change of bail agent's current business address; (4-7-11)
- c. Change of bail agent's current business phone number or business e-mail address if any; (4-7-11)
- d. Change of name or address of any surety insurance company for which the bail agent has an active appointment; (4-7-11)
- e. Cancellation by a surety insurance company of a bail agent's authority to write bonds for that company; (4-7-11)
- f. Any new affiliation with a bail bond agency; (4-7-11)
- g. Cancellation of a bail agent's affiliation with a bail agency; (4-7-11)

02. Notice of Legal Proceedings Required. A bail agent shall provide immediate written notice to the Department of Insurance of the filing of any criminal charges against the bail agent. In addition to the foregoing, a bail agent shall provide immediate written notice to the Department of Insurance of any material change in circumstances that would require a different answer than previously provided by the bail agent on the background information section of the Uniform Application for Individual Insurance Producer License/Registration. Upon request by the department, the bail agent shall provide copies of all relevant legal documents relating to the matter and any additional relevant information requested. (4-7-11)

013. CRIMINAL HISTORY CHECKS.

01. Criminal History Check Required. All licensed bail agents must obtain a criminal history records check in connection with the renewal of a bail agent's license and shall bear all costs associated with the records check. (4-7-11)

02. Grounds for Immediate Suspension. For the purpose of determining whether grounds for immediate suspension of a bail agent's license exist under Section 41-1039(4), Idaho Code, a withheld judgment or a plea of nolo contendere shall be considered the same as a conviction or guilty plea. (4-7-11)

014. STACKING OF BONDS PROHIBITED.

A bail agent may submit only one (1) power of attorney with each bail bond submitted to any Idaho court. The face value or face amount of the power shall be equal to or greater than the amount of the bail or bond set by the court in the case for which the bond and power are being submitted. A bail agent shall not attempt to "stack" bonds or powers by submitting more than one (1) power of attorney for any single bond. (4-7-11)

015. NOTIFICATION TO SURETY OF FORFEITURE.

A bail agent shall notify the surety insurance company of any forfeiture, as defined in Section 19-2905, Idaho Code, within ten (10) days of receiving the notice from the court. (4-7-11)

016. ALLOWABLE BAIL AGENT CHARGES AND FEES.

01. Charges for Bail Transaction. A bail agent shall not directly or indirectly impose or seek to impose any fees or charges except for those permitted under Section 41-1042, Idaho Code, as a part of any application, issuance, effectuation or continuation of a bail bond. (4-7-11)

02. Charges for Additional Services. Charges and fees outside the scope of Section 41-1042, Idaho Code, such as charges for returning a defendant to custody after a breach of the bail bond contract, must be negotiated separately after the bail bond has been effectuated. Negotiations for additional charges shall not be entered into as a part of the application, issuance and effectuation of a bail bond and shall not be a condition of or requirement for entering into or continuing a bail bond contract. Any fees or charges that are negotiated separately shall be reasonable in relation to the expenses or services for which the fee or charge is imposed and must be accompanied by a statement that clearly explains that any agreement to pay fees or charges is not a requirement or condition to the validity of the

existing bail bond. (4-7-11)

03. Collateral. Except as provided in Section 017.03 of this rule, collateral accepted in connection with the bail bond transaction shall be used solely for reimbursement of penal amounts paid to the courts in the case of forfeiture of the bail bond. (4-7-11)

017. BAIL AGENT FINANCING OF BAIL BOND PREMIUMS.

01. Written Agreement Required. No credit may be extended by any bail agent or surety insurance company for the payment of any bail bond premium without entering into a written agreement. The written agreement for the extension of credit to finance premium must contain at a minimum the following: (4-7-11)

- a. The names of the parties to the credit agreement; (4-7-11)
- b. The amount of premium financed; (4-7-11)
- c. The per annum rate of interest; (4-7-11)
- d. The scheduled premium payment dates; and (4-7-11)
- e. Signatures and dates of signatures of all parties to the credit agreement. (4-7-11)

02. Early Surrender for Failure to Pay. If failure to pay premiums due under a credit arrangement may result in the early surrender of the defendant, that fact must be clearly set forth in the written credit agreement. Early surrender for failure to make premium or interest payments when due must be handled in accordance with Section 41-1044, Idaho Code, and neither the bail agent nor the surety shall be entitled to seek recovery of any amounts unpaid as of the date of surrender. (4-7-11)

03. Collateral for Credit Agreement. If the credit agreement is to be collateralized, the collateral must not be excessive in relation to the amount of premium financed, must be separate and apart from any collateral used in the bail bond transaction, must be described in the credit agreement or in an attachment to the agreement, and must be handled in accordance with Section 41-1043, Idaho Code. (4-7-11)

018. PAYMENT OF FORFEITURE.

It is a violation of Section 41-1329(6), Idaho Code, for a bail surety to intentionally, or with such frequency as to indicate a general business practice, fail to pay a claim for forfeiture after liability for payment has become reasonably clear. Liability for payment upon forfeiture is reasonably clear when a defendant has not appeared or has not been brought before the court within one hundred eighty 180 days after the entry of the order of forfeiture, or a motion to set aside the forfeiture, in whole or in part, has not been filed with the court within five (5) business days after the expiration of the one hundred eighty (180) day period following the order of forfeiture pursuant to the Idaho Bail Act. (4-7-11)

019. SEVERABILITY.

If any provision of this Rule is for any reason held to be invalid, the remainder of the Rule shall not be affected thereby. (4-7-11)

020. -- 999. (RESERVED).

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