

## IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

### Consumer Services

#### Chapter 18.06.01 – Rules Pertaining to Bail Agents

##### **Who does this rule apply to?**

*This rule applies to all bail agents as defined by Section 41-1038, Idaho Code.*

##### **What is the purpose of this rule?**

*The purpose of this rule sets requirements and procedures relating to bail agents and is supplementary to other rules and laws in Title 41, Idaho Code, regulating insurance producers which also apply to bail agents.*

##### **What is the legal authority for the agency to promulgate this rule?**

*This rule implements the following statutes passed by the Idaho Legislature:*

Insurance -

The Department of Insurance:

- [Section 41-211, Idaho Code](#) – Rules

Producer Licensing:

- [Section 41-1037, Idaho Code](#) – Requirements For Bail Agents — Findings — Purpose
- [Section 41-1038, Idaho Code](#) – Definitions
- [Section 41-1039, Idaho Code](#) – License Required
- [Section 41-1040, Idaho Code](#) – Bond Required
- [Section 41-1041, Idaho Code](#) – Records
- [Section 41-1042, Idaho Code](#) – Collections And Charges Permitted
- [Section 41-1043, Idaho Code](#) – Collateral
- [Section 41-1044, Idaho Code](#) – Early Surrender of Defendant to Custody – Return of Premium
- [Section 41-1045, Idaho Code](#) – Responsibility for Actions of Others

##### **Who do I contact for more information on this rule?**

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Boise, ID 83720-0043

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## 18.06.01 – RULES PERTAINING TO BAIL AGENTS

### 000. LEGAL AUTHORITY.

Title 41, Sections 41-211 and 41-1037 through 41-1045, Idaho Code. (4-7-11)

### 001. TITLE AND SCOPE.

01. **Title.** IDAPA 18.06.01, “Rules Pertaining to Bail Agents.” (4-7-11)

02. **Scope.** The provisions of this rule 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 apply to bail agents. (4-7-11)

### 002. -- 011. (RESERVED).

### 012. NOTIFICATION REQUIREMENTS.

01. **Notice of Changes.** A bail agent licensed pursuant to Section 41-1039, Idaho Code, will immediately notify the Department in writing of any the following: (3-20-20)

a. Change of bail agent’s name, current business address, or current business phone number or business e-mail address, if any; (3-20-20)

b. Change of name or address of any surety insurance company for which the bail agent has an active appointment; (4-7-11)

c. Cancellation by a surety insurance company of a bail agent’s authority to write bonds for that company; (4-7-11)

d. Any new affiliation with a bail bond agency; (4-7-11)

e. Cancellation of a bail agent’s affiliation with a bail agency; (4-7-11)

02. **Notice of Legal Proceedings.** A bail agent will provide immediate written notice to the Department of the filing of any criminal charges against the bail agent. A bail agent will also provide immediate written notice to the Department 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. (3-20-20)

### 013. CRIMINAL HISTORY CHECKS.

01. **Criminal History Check Requisite.** All licensed bail agents will obtain a criminal history records check in connection with the renewal of a bail agent’s license and will 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 is considered the same as a conviction or guilty plea. (4-7-11)

### 014. STACKING OF BONDS.

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 is 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. (3-20-20)

### 015. NOTIFICATION TO SURETY OF FORFEITURE.

A bail agent will 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. (RESERVED)

### 017. BAIL AGENT FINANCING OF BAIL BOND PREMIUMS.

01. **Written Agreement.** 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 need to contain at a minimum the following: (4-7-11)

- a. The name, signatures, and dates of signatures of all parties to the credit agreement; (3-20-20)
- b. The amount of premium financed; (4-7-11)
- c. The per annum rate of interest; and (3-20-20)
- d. The scheduled premium payment dates. (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 needs to be clearly set forth in the written credit agreement. Early surrender for failure to make premium or interest payments when due is to be handled in accordance with Section 41-1044, Idaho Code, and neither the bail agent nor the surety is 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 will not be excessive in relation to the amount of premium financed, will be separate and apart from any collateral used in the bail bond transaction, will be described in the credit agreement or in an attachment to the agreement, and will 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 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. (3-20-20)

**019. -- 999. (RESERVED)**

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