

## CHAPTER 60M

### BAIL BONDS

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#### 60M.01 DEFINITIONS.

Subdivision 1. **Terms.** For the purposes of this chapter, the terms defined in this section have the meanings given.

Subd. 2. **Bail bond.** "Bail bond" means a three-party contract between the state, the accused, and the surety whereby an individual is released to the custody of the surety, and the surety guarantees to the state the appearance of the individual at all criminal proceedings for which the surety bond is posted.

Subd. 3. **Bail bond agency.** "Bail bond agency" means an agency contracted by a surety to supervise or otherwise manage the bail bond business written in Minnesota by producers appointed by the surety.

Subd. 4. **Commissioner.** "Commissioner" means the commissioner of commerce.

Subd. 5. **Department.** "Department" means the Department of Commerce.

Subd. 6. **Depositor.** "Depositor" means:

(1) an individual that has paid money to a surety, bail bond agency, or producer as premium or premium toward a bail bond product transaction, as defined in section 60M.02; or

(2) an individual that deposited money, property, or assets with a surety, bail bond agency, or producer to be held as collateral or used toward the liability of a bail bond product transaction, as defined in section 60M.03.

Subd. 7. **Negotiate.** "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular insurance contract concerning any of the substantive benefits, terms, or conditions of the contract, if the person engaged in the act either sells insurance or obtains insurance from insurers for purchasers.

Subd. 8. **Net premium.** "Net premium" means a bond's premium, less any commission agreed to in advance and in writing between a producer and the surety or bail bond agency.

Subd. 9. **Personal information.** "Personal information" has the meaning given in section 72A.491, subdivision 17.

Subd. 10. **Principal.** "Principal" is an individual who has engaged with a bail bond agency or producer to arrange for the individual's bail bond to be posted on the individual's behalf, securing the individual's release pretrial on a bail bond.

Subd. 11. **Privileged information.** "Privileged information" has the meaning given in section 72A.491, subdivision 19.

Subd. 12. **Producer.** "Producer" means a person that is licensed to write bail bonds, has been approved by the state court administrator's office, is a contractor or employee for a bail bond agency, and is appointed by a surety to execute or countersign bail bonds for the surety in connection with judicial proceedings.

Subd. 13. **Sell.** "Sell" means to exchange a bail bond product for money on behalf of a surety company.

Subd. 14. **Surety.** "Surety" means a domestic, foreign, or alien insurance company that is licensed to transact surety business in Minnesota under section 60A.06.

**History:** 2024 c 114 art 2 s 32

## 60M.02 PREMIUMS.

Subdivision 1. **Premiums; generally.** (a) Regardless of whether a producer is an employee or an independent contractor, a producer must charge the approved, filed rate of the surety being used to post a bail bond. Except as provided in subdivision 2 or in a situation where cash bail is set by the court under subdivision 5, the rate charged must not be less than the surety's filed rate.

(b) A producer is prohibited from providing a premium rebate.

(c) A producer may charge travel or other related fees, provided the producer complies with section 60K.46, subdivision 2.

Subd. 2. **Minimum premium.** A producer must charge a minimum premium of \$100. Any premium amount must be included in the surety's rate filing with the commissioner.

Subd. 3. **Bail bonds less than \$10,000.** (a) A producer is prohibited from posting a bail bond with a penal sum of \$10,000 or less unless the producer has:

(1) received at least 50 percent of the total premium owed under the surety's rate filing;

(2) provided the depositor with a receipt that indicates the premium paid; and

(3) if the full premium is not collected before posting the bond, a signed promissory note must be obtained requiring the unpaid premium in full within four months of the date the bond is posted.

(b) A promissory note issued under paragraph (a), clause (3), must be made on a surety or bail bond agency form as approved by the commissioner. The maximum annual interest rate allowed on a promissory note under this subdivision is six percent. A promissory note may authorize collection of the actual costs incurred to collect the premium, including reasonable attorney fees, in the event of a default.

Subd. 4. **Bail bonds greater than \$10,000.** (a) A producer is prohibited from posting a bail bond with a penal sum greater than \$10,000 unless the producer has:

(1) received at least 30 percent of the total premium owed under the surety's rate filing;

(2) provided the depositor with a receipt that indicates the premium paid; and

(3) if the full premium is not collected before posting the bond, a signed promissory note must be obtained requiring the unpaid premium in full within 12 months of the date the bond is posted.

(b) A promissory note issued under paragraph (a), clause (3), must be made on a surety or bail bond agency form as approved by the commissioner. The maximum annual interest rate allowed on a promissory note under this subdivision is six percent. A promissory note may authorize collection of the actual costs incurred to collect the premium, including reasonable attorney fees, in the event of a default.

Subd. 5. **Alternative premium structure.** (a) A bail bond agency or producer may include an alternative premium structure as part of the bail bond agency or producer's surety rate filing submitted to the commissioner.

(b) If a court sets cash bail at 15 percent or less of the bond's penal amount, a surety, bail bond agency, or producer may charge an alternative premium that is as low as one-half of the cash bail amount set by the court. An alternative premium charged under this subdivision is subject to the minimum premium requirement under subdivision 2.

(c) A bail bond agency or producer is required to obtain from the court documentation indicating the cash bail amount set by the court and must maintain the documentation in the bond file.

(d) A bail bond agency and producer must maintain a log of all bonds where an alternative premium was charged under this subdivision.

(e) Subdivisions 3 and 4 apply to the payment of an alternative premium structure under this subdivision.

Subd. 6. **Late payments.** If a payment, including a minimum monthly payment, that is required under a promissory note executed pursuant to subdivision 3 or 4 is more than 90 days late, the bail bond agency or producer must, within 20 days of the date a payment becomes 90 days late:

(1) for amounts owed that are \$2,500 or less, assign the debt to a Minnesota-licensed debt collector; or

(2) for amounts owed that are greater than \$2,500:

(i) file a civil action against the delinquent premium payer; and

(ii) make all reasonable efforts to:

(A) serve a summons and complaint;

(B) enter judgment, unless the matter is settled while the action is pending; and

(C) enforce the judgment, which may be satisfied by assigning the debt to a licensed debt collector.

Subd. 7. **Form of payment.** A surety, bail bond agency, or producer may only accept cash, money orders, checks, wire transfers, electronic funds transfers, debit cards, prepaid cash cards, or credit cards as a premium payment method. Any balance owed must be evidenced by a promissory note, as provided under subdivision 3 or 4.

Subd. 8. **Premium trust account.** (a) A payment made to or received by the producer, bail bond agency, or surety must be deposited into a premium trust account that is maintained by the producer, bail bond agency, or surety within seven business days.

(b) A premium trust account must be used only for premium payments and travel or other related fees authorized under subdivision 1, paragraph (c). A producer, bail bond agency, or surety is prohibited from depositing any other money into a premium trust account.

(c) A deposit into a premium trust account must be accompanied by a deposit slip that:

(1) separately designates the principal; and

(2) lists the power of attorney number of the bond for which the payment is being collected.

(d) Money may be withdrawn from a premium trust account only to:

- (1) pay the net premium to the surety or bail bond agency;
- (2) pay a surety or bail bond agency any build-up fund or escrow account required by a contract executed by the producer and the surety or bail bond agency;
- (3) pay or reimburse travel or other related fees authorized under subdivision 1, paragraph (c);
- (4) pay or reimburse the producer any fees or charges deducted electronically by credit card processing vendors, provided the fees and charges comply with section 60K.46, subdivision 2; and
- (5) distribute any excess amounts to the operating account.

**History:** 2024 c 114 art 2 s 33

### 60M.03 COLLATERAL.

Subdivision 1. **Collateral generally.** When collateral is accepted, the producer, surety, or bail bond agency must provide a written and numbered receipt to the depositor. The receipt must:

- (1) contain the date; depositor's name and address; bail bond agency's name and address; surety's name and address; defendant's name; bond amount; and cash amount or a detailed description of the collateral, if the collateral is not cash; and
- (2) be signed by:
  - (i) the producer, surety, or bail bond agency; and
  - (ii) the depositor.

Subd. 2. **Collateral received; transfer; control.** (a) Except as otherwise provided under paragraph (b), a producer or bail bond agency must transfer all cash and noncash collateral that the producer or bail bond agency receives to the surety.

(b) A surety may, at the surety's discretion, permit: (1) a producer to transfer all cash and noncash collateral that the producer receives to the bail bond agency; and (2) the bail bond agency to retain possession and control over the cash and noncash collateral without transferring the cash and noncash collateral to the surety. If a surety exercises the surety's discretion under this paragraph, the bail bond agency assumes the surety's responsibilities and responsibilities under this section. A producer is prohibited from retaining possession or control of cash or noncash collateral beyond the time periods established in this section.

Subd. 3. **Cash collateral trust account.** (a) All cash collateral must be deposited into a cash collateral account maintained by a surety or bail bond agency as provided in subdivision 2, paragraph (b), within seven business days of the date the cash collateral is received.

(b) All checks, money orders, wire transfers, or similar money transfer for collateral must be made payable to the bail bond agency and deposited into the surety's or bail bond agency's collateral account within ten business days of the date the payment was received.

(c) When required by law, a bail bond agency or producer must: (1) file an IRS Form 8300 and informational notice; and (2) retain a copy of the filed IRS Form 8300 and informational notice in the bail bond agency's or producer's files.

Subd. 4. **Separate cash collateral account.** At the surety's discretion, the surety or a bail bond agency may maintain a separate cash collateral trust account. A cash collateral trust account may be an interest-bearing

account or a noninterest-bearing account. If the separate cash collateral trust account is an interest-bearing account, the interest earned is for the benefit of the depositor.

Subd. 5. **Surety liable.** The surety is liable to return any cash or noncash collateral that a producer or bail bond agency collects, less any amounts owed under subdivision 9, paragraph (b), even if the collected collateral is not transferred to the surety.

Subd. 6. **Prohibitions.** (a) A surety, bail bond agency, or producer is prohibited from collecting cash collateral in excess of the bond's penal sum.

(b) A surety, bail bond agency, or producer is prohibited from using collateral for personal benefit or gain.

(c) A surety, bail bond agency, or producer is prohibited from taking a quitclaim deed on real property as collateral for a bond.

Subd. 7. **Collateral log.** (a) A bail bond agency or producer must maintain a collateral log that includes:

- (1) the power of attorney number;
- (2) the principal's name;
- (3) the depositor's name;
- (4) the cash collateral amount, including whether the cash collateral is being held in an interest-bearing account;
- (5) if the collateral is noncash collateral, a detailed description of the collateral;
- (6) the date the collateral was taken; and
- (7) the dates the collateral was sent to the surety, returned to the depositor, liquidated, or applied to a loss or cost incurred by the producer, bail bond agency, or surety.

(b) For purposes of paragraph (a), an indemnity agreement does not constitute collateral and is not required to be included in the collateral log. For purposes of paragraph (a), clause (7), the amount of a loss incurred must be listed separately from other costs in the collateral log.

Subd. 8. **Mortgages and deeds of trust.** (a) A mortgage or deed of trust taken as collateral for a bond must name the surety as a mortgagee. At the discretion of the surety, a bail bond agency may be named as the mortgagee in lieu of the surety being named as the mortgagee.

(b) A producer is prohibited from being named as a mortgagee for a mortgage or deed of trust taken as collateral for a bond.

Subd. 9. **Return of collateral.** (a) A surety or bail bond agency that controls the collateral must return cash and noncash collateral to the depositor named in the collateral receipt within 21 days of the date the depositor provides the surety or bail bond agency with written proof that the bond has been discharged.

(b) If the depositor owes the surety, bail bond agency, or producer a premium; is liable for a loss or expense related to a breach of the bond; or is liable pursuant to the terms of an indemnity or other agreement, the surety or bail bond agency may retain from the collateral all money required to satisfy the depositor's debts.

(c) If all of the depositor's debts secured by collateral are satisfied, the surety or bail bond agency must provide documentation to release any liens, security interests, mortgages, or other security interests that were filed or obtained in relation to the collateral. The documentation must be provided within 21 days of the date the depositor provides the surety or bail bond agency with written proof that the bond has been discharged.

Subd. 10. **Bond or indemnity agreement; breach.** If a bond or indemnity agreement is breached and the surety, bail bond agency, or producer suffers a loss, the surety or bail bond agency that controls the collateral must send to the depositor written notice that notifies the depositor that the surety or bail bond agency intends to liquidate noncash collateral. The written notice must be sent by certified mail to the depositor's last known address at least 30 days before the date the surety or bail bond agency liquidates the noncash collateral.

Subd. 11. **Compliance with Minnesota law.** Any action taken to enforce or foreclose on cash or noncash collateral must comply with Minnesota law.

Subd. 12. **Collateral documentation; audit and inspection.** (a) All collateral and related documentation held in trust by the surety or bail bond agency must be made available for immediate audit and inspection by the department.

(b) All collateral and related documentation held in trust by the bail bond agency must be made available for immediate audit and inspection by the surety.

**History:** 2024 c 114 art 2 s 34

#### **60M.04 PRODUCER AUDITS.**

Subdivision 1. **Premium audits.** (a) By April 30 each year, a surety must audit each licensed bail bond producer's bonds written during the previous calendar year to ensure the licensed bail bond producer has complied with this subdivision.

(b) The premium audits must include a review of an adequate sample of bonds written by each bail bond producer. A review sample is adequate if it consists of the lesser of: (1) 20 percent of the bonds written by the bail bond producer; (2) 24 bonds; or (3) all of the bonds written by the bail bond producer, if the bail bond producer wrote fewer than 12 bonds during the previous calendar year. The audit sample must include the four largest bonds written by the bail bond producer and four bonds that charged an alternative premium under section 60M.02, subdivision 5, if applicable. Of the remaining bonds audited and to the extent the quantity of bonds supports the percentages, 50 percent must be randomly selected bonds with a penal sum that is \$10,000 or less, and 50 percent must be randomly selected bonds with a penal sum that is greater than \$10,000.

(c) The premium audit must be conducted at the producer's office or the bail bond agency's office, depending on which entity maintains the physical records. The surety must not disclose to the producer or bail bond agency, or anyone affiliated with the surety or bail bond agency, which files the surety intends to audit until the surety's on-site audit of the producer begins.

(d) For each bond audited, the surety must confirm that:

(1) the proper premium was charged and collected, including a review of the premium account statements and deposit slips;

(2) a proper premium receipt is in the producer's file;

(3) if the full premium was not paid before the bond was posted, a proper promissory note was executed; and

(4) if the premium was not paid as required, the producer complied with section 60M.02, subdivision 6.

(e) An annual premium audit under this section must also include a follow-up review of each bond audited the previous year for which full premium had not yet been collected at the time the audit occurred. For each bond subject to a follow-up review, the surety must:

(1) review the premium account and deposit slips to confirm that the full premium was collected; or

(2) if full payment of the premium was not received, confirm that the producer complied with section 60M.02, subdivision 6.

(f) A bail bond agency or producer is prohibited from acting on behalf of the surety to conduct the bail bond agency's or producer's own bail bond agency or producer audits.

**Subd. 2. Collateral audits.** (a) By April 30 each year, a surety must audit each licensed bail bond producer's bonds written during the previous calendar year to ensure the licensed bail bond producer has complied with this subdivision.

(b) A collateral audit under this subdivision must include confirmation that:

(1) a collateral log was maintained;

(2) a cash collateral account exists;

(3) the balance of the cash collateral indicated on the collateral log is identical to the amount held in the collateral trust account; and

(4) a collateral receipt exists for collateral collected, as represented by a sampling of the lesser of: (i) 20 percent of all bonds secured by collateral; or (ii) 12 bonds that were secured by collateral.

**Subd. 3. Audits report.** (a) By May 31 each year, a surety must prepare a report of the audits conducted under this section during that year. The report must include:

(1) a list of the bonds audited under subdivision 1 for each producer, including the power of attorney number used for each audited bond and whether full premium payment was made by the date the audit occurred;

(2) a list of the bonds included in a follow-up review of the previous year's audit, including whether full premium payment was collected by the date the audit occurred;

(3) the compliance certifications required under section 60M.07, subdivision 4; and

(4) details regarding any violations discovered during the audit or a statement that no violations were discovered, as applicable.

(b) The annual report under this subdivision must be maintained for a period of at least 36 months from the date the report is complete. Annual reports must be submitted to the commissioner by June 30 each year.

**History:** 2024 c 114 art 2 s 35

**60M.05 SOLICITATION.**

Subdivision 1. **Solicitation generally.** (a) A producer is prohibited from, in or on the grounds of a jail, prison, or other location where an incarcerated person is confined, or in or on the grounds of a court unless requested by the principal, a potential indemnitor, or the legal counsel of a principal:

(1) approaching, enticing, inviting, or soliciting a person to use a bail bond agency's services;

(2) distributing, displaying, or wearing an item that advertises a bail bond agency's services;

(3) no producer or bail bond agency is permitted to solicit by calling or leaving messages for principals on jail phones or any other messaging devices available to principals while in custody; or

(4) no producer or bail bond agency is permitted to place money on the canteen or books of any individual held in custody.

(b) Notwithstanding paragraph (a), clause (3), permissible print advertising in a jail is limited to:

(1) a listing in a telephone directory; and

(2) posting the producer's or bail bond agency's name, address, and telephone number in a designated location within the jail, as approved by the jail.

Subd. 2. **Identification; marketing material.** A producer is prohibited from wearing or displaying any information, other than identification approved by the surety or bail bond agency, which constitutes marketing material that a surety or bail bond agency must approve and maintain under Minnesota Rules, chapter 2790. A producer is prohibited from displaying any information constituting marketing material in or on the property or grounds of: (1) a jail, prison, or other location where incarcerated people are confined; or (2) a court.

Subd. 3. **Other prohibited conduct.** (a) A producer is prohibited from loitering in or about the courthouse, jail, or any other place where individuals are held in custody.

(b) A producer is prohibited from making unauthorized and unsolicited cold calls without having first spoken with the principal.

(c) A producer is prohibited from soliciting a bond to a person by recorded or electronic communication, or by live telephone contact, unless the producer otherwise complies with applicable state and federal law, including but not limited to:

(1) the National Do Not Call Registry under Code of Federal Regulations, title 16, part 310; and

(2) the Telephone Consumer Protection Act of 1991, Code of Federal Regulations, title 47, part 64.1200.

(d) A surety, bail bond agency, or producer is prohibited from obtaining a credit check on a person unless the person has authorized the surety, bail bond agency, or producer to do so in writing. The surety, bail bond agency, or producer must retain the written authorization provided by the person subject to the credit check.

Subd. 4. **Compliance with other law.** (a) A surety, bail bond agency, and producer must comply with all federal and state privacy laws related to information provided to a producer during the application process and during bond underwriting by a bond principal, indemnitor, or other person.



(b) A surety, bail bond agency, and producer must comply with sections 60K.46, subdivision 6; 72A.494; 72A.496, subdivision 1; 72A.501; and 72A.502, subdivision 1.

(c) A surety, bail bond agency, and producer must receive preauthorization before collecting and disclosing personal or privileged information about an applicant or proposed insured, and must provide all notices otherwise required by Minnesota law.

(d) A surety, bail bond agency, and producer must otherwise comply with all applicable Minnesota law.

Subd. 5. **Insurance transaction.** The act of soliciting, underwriting, negotiating, or selling a bail bond constitutes an insurance transaction.

**History:** 2024 c 114 art 2 s 36

#### **60M.06 UNLICENSED INDIVIDUALS; NO REBATES OR PAYMENT.**

(a) With the exception of a contracted bail enforcement agent offering a reward for information that assists in the location and apprehension of a principal under section 629.63, a surety, bail bond agency, or producer is prohibited from paying a fee or commission, or otherwise giving or promising anything of value, to: (1) a jailer, police officer, peace officer, or any other person who has the power to arrest or hold an individual in custody; or (2) a judge, public official, or public employee.

(b) A surety, bail bond agency, or producer is prohibited from paying a fee or rebate, or otherwise giving or promising anything of value, to the individual seeking the producer's services or the individual seeking the producer's services on another individual's behalf.

(c) A surety, bail bond agency, or producer is prohibited from paying a fee or commission, or otherwise giving or promising anything of value, to a person for selling, soliciting, or negotiating a bail bond if the person is not properly licensed as a producer.

(d) A surety, bail bond agency, or producer is prohibited from paying a fee, rebate, or commission, or otherwise giving or promising anything of value, to an inmate for referring business or for any other reason related to soliciting, negotiating, or selling a bail bond.

**History:** 2024 c 114 art 2 s 37

#### **60M.07 OTHER PROVISIONS.**

Subdivision 1. **Compliance with standards of conduct.** A producer must comply with the Minnesota Court Administrator's Office's bail bond procedures and standards of conduct, including but not limited to while in or on the property of courts, jails, or other detention facilities in Minnesota. A surety or bail bond agency must require the surety or bail bond agency's producers to affirm that the producer complies with any changes to the bail bond procedures and standards of conduct as the changes are posted to the Minnesota state court website or the Minnesota Court Administrator's Office's website.

Subd. 2. **No waiver.** A producer is prohibited from soliciting or accepting a waiver of any requirement under this chapter.

Subd. 3. **Record maintenance.** (a) A bail bond agency and producer must maintain the following records on each bond for at least seven years after the date the bond is terminated:

- (1) power of attorney;
- (2) premium receipts;

- (3) the promissory note for unpaid premium, if any;
- (4) the cash bond amount set by the court, if an amount less than the filed rate is accepted for the premium;
- (5) all documents related to any lawsuit filed to collect the premium;
- (6) indemnity agreements;
- (7) collateral receipts, if any;
- (8) proof that collateral was returned, if any;
- (9) proof of bond exoneration or forfeiture payment;
- (10) all records relating to liquidating and converting collateral, including fees or costs; and
- (11) proof of any expenses incurred or losses paid by the surety, bail bond agency, or producer.

(b) A bail bond agency and producer must maintain all premium account, collateral account, and operating account bank records, including deposit slips, for at least seven years after the records are made available.

(c) All records that a bail bond agency or producer maintain under this chapter must be kept in the bail bond agency or producer's office or storage location, as applicable. If a bail bond agency or producer's relationship with a surety is terminated, the information and documentation must be immediately transferred to:

- (1) the bail bond agency, if the producer is terminated; or
- (2) the surety, if the bail bond agency is terminated.

(d) A bail bond agency and producer's records must be available for the commissioner or the surety to inspect, with or without notice.

**Subd. 4. Compliance certification.** (a) During the surety's annual audit of a producer, the producer must sign a compliance certification form that attests to the producer's compliance with this chapter during the previous calendar year.

(b) Before a producer is appointed by a surety and at each license renewal thereafter, a producer must sign an affidavit of compliance form in which the producer acknowledges the producer is familiar and continually complies with the requirements under this chapter. The surety must retain completed affidavits and send requested affidavits to the commissioner within ten days of the date an affidavit is requested.

(c) The commissioner must establish the compliance certification and affidavit of compliance forms for use under this subdivision.

**Subd. 5. Producer termination; notice.** (a) If a producer's relationship with a surety is voluntarily or involuntarily terminated due to a violation of this chapter or because the surety determined the producer violated this chapter during an annual audit, the surety must, within 30 days of the date the producer is terminated, provide the commissioner with the terminated producer's name and the reason the producer was terminated.

(b) Another surety is prohibited from appointing a producer subject to a termination under paragraph (a) unless the department approves the appointment.

Subd. 6. **Access to information.** A surety, bail bonds agency, and producer are considered a government associated entity and are allowed to apply and be granted access to the Minnesota Government Access system under the Court Access Rules.

Subd. 7. **Surrender of a principal for bail revocation.** The courts, jails, and sheriff offices in Minnesota must comply with section 629.63, allowing for a principal to be surrendered and received by the jail of the county that the bail bond was originated from and to be held in custody until the principal can have a court hearing where the surety, bail bond agency, or producer can give evidence and make motion for the revocation and discharge of the bail bond.

Subd. 8. **Forfeiture timing requirement.** The court must order a bail bond forfeited and send notice to the surety, bail bond agency, or producer no later than 30 days from the date of a principal failing to appear at a scheduled hearing. If a court fails to forfeit a bail bond within 30 days of a principal failing to appear or fail to send notice within seven days of the forfeiture to the surety, bail bond agency, or producer, the court must allow for a reinstatement and discharge of the bail bond without penalty. If a court fails to take action against the bail bond within 30 days of a principal failing to appear at a hearing, the court must allow for revocation and discharge without penalty.

**History:** 2024 c 114 art 2 s 38