



South Carolina Department of Insurance

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BULLETIN 2010-01

TO: Professional Bail Bondsmen, Insurers, Magistrates, Municipal Court Judges,
Court Administration and South Carolina Clerks of Court

FROM: Scott H. Richardson, CPCU 
Director

SUBJECT: Requirements for Professional Bail Bondsmen

DATE: February 3, 2010

I. PURPOSE

This bulletin addresses concerns expressed by the South Carolina Supreme Court, Court Administration and the South Carolina Clerk of Court Advisory Board about the conduct of certain professional bondsmen. It is also intended to remind professional bondsmen of their statutory responsibilities under Chapter 53 of Title 38.

II. DISCUSSION

A. Executing bonds in excess of the bonding authority given by the clerk of court is a violation of South Carolina law.

It has been brought to the Department's attention that: 1) certain professional bondsmen are executing bonds that exceed the bonding authority given and securities pledged with and accepted by the clerks of court; 2) certain professional bondsmen are not filing monthly reports as required by statute; and 3) some of the real estate assets pledged as collateral by the bondsmen to cover his liabilities may have been encumbered. These actions constitute violations of South Carolina law. Violations of Chapter 53 of Title 38 are subject to both civil and criminal penalties.

South Carolina law provides that no professional or surety bondsman may become a surety on an undertaking unless he has registered his current license with in the office of the clerk of the circuit court in the county in which he resides and registers a certified copy of the license with the clerk of the circuit court in any other county in which he writes bail bonds. *See* S.C. Code Ann. Section 38-53-260 (Supp. 2008). Additionally, "each professional bondsman acting as a surety on bail bonds in this state shall maintain security deposits with the clerk of court of the county in which the bondsman has his primary place of business equal to at least

one-fourth of the amount of all bonds or undertakings written in this state on which he is absolutely or conditionally liable as of the first day of the current month. A minimum of ten thousand dollars of this collateral shall be in the form of cash deposited with the clerk of court or certificates of deposit pledged to the clerk of court. Any pledges of real estate, the value of which shall be based upon the appraised value by the county tax assessor shall be free and clear of any encumbrances based on the title opinion furnished to the clerk of court.” See S. C. Code Ann. Section 38-53-300 (Supp. 2008). The authority of the professional bondsman to execute bonds is expressly conditioned upon the amount of securities pledged with the clerks of court and accepted by the clerks of court as sufficient to cover the obligations or liabilities of the bondsman.

A professional bondsman cannot exceed the bonding authority granted by the clerks of court. Additionally, the assets pledged as collateral must not be encumbered. The Department will impose penalties for each violation of these requirements brought to its attention by the clerks of court. Violators will be subject to the penalties set forth in Section 38-2-10. Administrative penalties will be instituted for each violation of the insurance laws.

B. South Carolina law requires professional bondsmen to file a monthly report by the fifteenth of every month.

Section 38-53-310 requires each professional bondsman to file a report by the fifteenth of the month with the clerk of court of the county of his principal place of business and any other county in which he does business a written report. There are no exceptions to this requirement. Reports must be submitted by the statutory deadline each month. Effective immediately, the Department will impose the penalties set forth in Section 38-2-10 for violations of Section 38-53-310 for each report submitted late. Attached as an exhibit to this report is the form that must be submitted monthly to the clerks of court in each county in which business is transacted.

C. Encumbered assets cannot be pledged as collateral.

Section 38-53-270 sets forth the requirements for security deposits filed with the clerk. Real estate pledged as collateral must be free and clear. It cannot be subject to any liens. Professional bail bondsmen pledging encumbered real estate or subsequently encumbering real estate that has been pledged will be subject to the penalties set forth in Title 38 and referred to law enforcement authorities for criminal action as this will be considered an intentional violation of South Carolina law. At no time shall the security deposits fall below the minimum requirements set forth in Chapter 53.

III. QUESTIONS

Any questions about the content of this bulletin should be directed to the attention of Willie Seawright and may be emailed to him at wseawright@doi.sc.gov

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