

FIRST JUDICIAL CIRCUIT

**LOCAL RULES AND REGULATIONS GOVERNING PROFESSIONAL BONDSMEN IN
CRIMINAL CASES IN BROOKE, HANCOCK AND OHIO COUNTIES**

PART I - GENERAL

1.01 Definitions.

(1) "Bond" means any bail, bond or recognizance given as security for the appearance of a defendant to answer a specific criminal charge before any court exercising criminal jurisdiction at a specific time, or at any time to which the case may be continued; but it shall not be deemed to include a guaranteed arrest bond certificate.

(2) "Bonding Business" means the business of becoming surety for compensation upon bonds in criminal cases in any court exercising criminal jurisdiction in the State of West Virginia.

(3) "Bondsman" means any person or corporation engaged either as principal or as agent, clerk or representative of another in the bonding business.

(4) "Person" means any person, corporation, society, association or partnership.

1.02 Bondsman Must Be Approved by Circuit Court.

No person shall, either as principal or as agent, clerk or representative of another, engage in the bonding business, unless authorized to do so by an order of the circuit court.

**PART II - PROCEEDING FOR AUTHORITY TO ENGAGE
IN BONDING BUSINESS**

2.01 (a) Any person proposing to engage in the bonding business shall apply to the circuit court by verified petition with the Clerk of the Circuit Court of Ohio County, which shall set forth the following information and statements under oath:

(i) A list of all real estate and personal property owned by applicant, the location and value thereof, together with a brief description and the current assessed value or a financial statement certified by an accountant showing the applicant's financial condition and net worth.

(ii) Whether the applicant is in default in payment of any forfeited bond in any court in the State of West Virginia, the amount of bond in any default, the date of forfeiture, the court and style of the case in which the forfeiture was declared;

(iii) The charge, date, court and disposition of any conviction for any felony or misdemeanor crimes by the applicant, by any person who will be employed by the bondsman as agent, clerk, or representative in the bonding business or by any officer or stockholder of any applicant corporation;

(iv) A declaration by the applicant that he or it shall abide by the terms and provisions of these rules and regulations and *W.Va. Code §51-10-1, et seq.*;

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(v) A listing of the name, age, residence and business telephone number of the applicant and of any person authorized to represent the applicant as agent, clerk, or representative in the bonding business; and

(vi) A recital of the following declaration to which the applicant shall subscribe and agree: "In the event this petition is granted, I will not sell, convey, mortgage or otherwise encumber any of the real estate listed herein without first obtaining leave of court."

(b) The petition shall have filed therewith a power of attorney executed by the applicant for each person who will be employed by the applicant as agent, clerk or representative in the bonding business, and an affidavit from each of these persons stating that he shall abide by the terms and provisions of these rules and regulations and *W.Va. Code §51-10-1, et seq.*

2.02 Hearing on Original Petition.

A hearing shall be conducted in the Circuit Court of Ohio County by the current Chief Judge on the original petition within forty-five (45) days from the date of filing date. A copy of the Order entered from the hearing shall be forwarded by the Clerk of the Circuit Court of Ohio County by first class mail to the sheriff, the commander of the Detachment of West Virginia Department of Public Safety, the Ohio County prosecuting attorney, the Ohio County magistrates and all mayors in Ohio county in order that they may be informed of the court's decision. In addition, the Clerk of the Circuit Court of Ohio County shall forward a copy of the Order by first class mail to the Clerks of the Circuit Court of Brooke and Hancock Counties who shall then forward a copy of the Order to the sheriff, the commander of the Detachment of West Virginia Department of Public Safety, the prosecuting attorney, the magistrates and all mayors in their respective counties so they may be informed of the Court's decision.

2.03 Petition for Renewal.

(a) A petition for renewal shall be filed annually by a bondsman proposing to continue in the bonding business on or before January 30th of each calendar year. A copy of the Order reflecting the Court's ruling on the petition for renewal shall be forwarded by the Clerk of the Circuit Court of Ohio County by first class mail to the sheriff, the commander of the Detachment of West Virginia Department of Public Safety, the Ohio County prosecuting attorney, the Ohio County magistrates and all mayors in Ohio county in order that they may be informed of the court's decision. In addition, the Clerk of the Circuit Court of Ohio County shall forward a copy of the Order by first class mail to the Clerks of the Circuit Court of Brooke and Hancock Counties who shall then forward a copy of the Order to the sheriff, the commander of the Detachment of West Virginia Department of Public Safety, the prosecuting attorney, the magistrates and all mayors in their respective counties so they may be informed of the Court's decision. The petition for renewal must be approved by the court before the bondsman shall be permitted to continue beyond the anniversary date as surety on bonds in said counties.

(b) The petition for renewal shall set forth the information and statements required for an original petition and also shall have filed therewith an affidavit that since the previous qualification the bondsman has abided by the terms and provisions of these rules and regulations and *W.Va. Code, § 51-10-1, et seq.*

2.04 Limitation on Individual and Aggregate Amount of Bonds.

(a) Any authorization granted by the court to any person to engage in the bonding business shall be effective so long as the aggregate penalties of the bonds written thereunder and of the bonds written in any other counties in West Virginia do not exceed twice the amount of the

difference between two times the amount of the current assessed value of the real estate listed and the amount of the encumbrances; provided, however, that when two or more bondsmen join in the writing of an individual or single bond, the penalty of the bond shall be prorated between or among the bondsmen, either equally or on the same proportionate basis as the bondsmen participating in the writing of the bond, as the case may be.

(b) No individual or single bond shall be taken or approved which obligates the bondsman in any amount exceeding one-half the aggregate penalties of the bond authorized to be written.

PART III - COMPENSATION OF BONDSMAN

3.01 Authorized Bonding Fee.

The bonding fee required by a bail bondsman shall be at least ten percent of the amount of the bond. The bonding fee received by the bondsman shall not, in the aggregate, exceed the amount of the bond.

3.02 Charge, Security or Other Thing of Value, Other Than Bonding Fee, is Prohibited.

(a) A bondsman shall not, directly or indirectly, charge, accept or receive any sum of money, or other thing of value other than the duly authorized maximum bonding fee, from any person for whom he has executed bonds, for any other service whatever performed in connection with any indictment or charge upon which such person is bailed or held.

(b) A bondsman shall not, directly or indirectly, secure from any person, other than the defendant, any promise to indemnify or save harmless, or any other undertaking to pay all or any part of any forfeiture of bail; provided, however, that a bondsman, in the event of forfeiture of bail, may file suit against the person for whom he executed the bond to recover such forfeiture.

PART IV - REPORTS OF BONDSMAN TO COURT

4.01 Reports of Bondsman to Court.

(a) Whenever an authorized bondsman becomes surety for compensation upon a bond in a criminal case in any court in Brooke, Hancock or Ohio Counties, the bondsman shall prepare a report to the Clerk of the Circuit Court of Ohio County once a year by no later than December 31 of each calendar year, which report shall include the following to be filed in the official case folder with the petition in the clerk's office:

- (i) The full name and address of the defendant for whom the bond is executed;
- (ii) The criminal offense with which the defendant is charged;
- (iii) The name of the court officer authorizing the admission to bail of the defendant;
- (iv) The amount of the bond;

- (v) The amount of the fee charged by the bondsman and the fee paid to the bondsman for executing the bond;
- (vi) The full name and address of the person to whom the bondsman presented his charge for such fee;
- (vii) The full name and address of the person paying such fee;
- (viii) The manner of payment of such fee;
- (ix) The caption and number of the cause wherein the bond is given; and
- (x) Whether or not the bond has been discharged.

(b) The records from which the reports are prepared, which the authorized bondsman is required to maintain, shall be retained for a period of at least two (2) years. The report shall be submitted to the Clerk of the Circuit Court of Ohio County on or before December 31 of each calendar year or at such other time as the court may direct. The Clerk of the Circuit Court of Ohio County shall forward a copy of all reports to the Clerks of the Circuit Court of Brooke and Hancock Counties.

(c) The report also shall include information as to the total bonds written in any other counties in West Virginia, and such other information as the court may from time to time require.

PART V - SUSPENSION OR REVOCATION

5.01 Suspension.

(a) Whenever an order of forfeiture is made of any bond in any court in Brooke, Hancock and Ohio Counties, and any surety thereon has been authorized by this court to engage in the bonding business, then the authority granted by this court to the authorized bondsmen thereon shall be automatically suspended until the forfeiture is satisfied in full, or until the further order of this court.

(b) Any authorization given pursuant to these rules and regulations may be temporarily suspended for good cause at any time by this court.

5.02 Revocation.

Any authorization given pursuant to these rules and regulations may be revoked at any time by the court, upon notice and hearing, upon any of the following grounds:

- (a) The bondsman becomes a public official or an employee thereof;
- (b) The bondsman is convicted of any felony or any offense involving moral turpitude;
- (c) The bondsman is adjudicated bankrupt; or
- (d) The bondsman fails to abide by the terms and conditions of these rules and regulations or *W.Va. Code §51-10-1, et seq.*

5.03 Notice to Existing Bondsmen and the Public.

The Clerks of the Circuit Court for Brooke, Hancock and Ohio Counties shall forward a copy of the LOCAL RULES AND REGULATIONS GOVERNING PROFESSIONAL BONDSMEN IN CRIMINAL CASES IN BROOKE, HANCOCK AND OHIO COUNTIES to all existing bondsmen who have authority to engage in the bonding business within the First Judicial Circuit. In addition, said Clerks shall provide a copy of these local rules to anyone upon request.

5.04 Effective Date.

The LOCAL RULES AND REGULATIONS GOVERNING PROFESSIONAL BONDSMEN IN CRIMINAL CASES IN BROOKE, HANCOCK AND OHIO COUNTIES shall become effective upon the entry of the same by the Chief Judge.

ENTERED this 26th day of June, 2015.


CHIEF JUDGE MARTIN J. GAUGHAN

ENTERED IN ADMINISTRATIVE
ORDER BOOK 25
PAGE 659
as stated on Order.


CLERK OF THE CIRCUIT
COURT OF OHIO COUNTY, W.V.

A copy, Teste:


Circuit Clerk