

**IN THE CRIMINAL COURT FOR THE 15TH JUDICIAL DISTRICT
JACKSON, MACON, SMITH, TROUSDALE AND WILSON COUNTIES**

ORDER AMENDING LOCAL RULES OF PRACTICE FOR BAIL BONDS

Pursuant to the authority granted to the Court by Rule 12 of the 15th Judicial District Local Rules of Court, Appendix 7. Local Rules of Practice for Bail Bonds, the Court hereby orders that Rule 2 (A)(1) and Rule 2(A)(2) – Petitions for Approval of New Company be amended as underlined below:

RULE 2 – PETITIONS FOR APPROVAL OF NEW COMPANY

A. The Judge of the Criminal Court shall approve each person or company who petitions the Court for permission to write bonds within this judicial district. The petition shall contain the following information.

1. The business name under which the new company will be operating and the street address and the business telephone number for the bonding company office, which shall be located in the Fifteenth (15th) Judicial District.
2. A copy of the business license issued for the bonding company in the county where such business is located within the Fifteenth (15th) Judicial District.

It is further ordered in accordance with Rule 12 that the Circuit Court Clerk of each respective county within the Fifteenth (15th) Judicial District shall notify all approved bonding companies, the District Attorney General and the Sheriff by certified mail, return receipt requested or by personal delivery with a signed receipt for the same giving notice of this amendment. Upon receipt of notice, all bonding companies shall comply with this amendment.

IT IS SO ORDERED THIS 5 DAY OF March 2013.



HONORABLE DAVID E. DURHAM
CRIMINAL COURT JUDGE

**IN THE CRIMINAL COURT FOR THE 15TH JUDICIAL DISTRICT
JACKSON, MACON, SMITH, TROUSDALE AND WILSON COUNTIES**

**TN 15th District Circuit Court, App. 7
Appendix 7. Local Rules of Practice for Bail Bonds**

RULE 1—GENERAL

These Rules shall be applicable in the General Sessions Court of each county and Courts of record in all counties exercising criminal court jurisdiction within the 15th Judicial District.

RULE 2--PETITIONS FOR APPROVAL OF NEW COMPANY

A. The Judge of the Criminal Court shall approve each person or company who petitions the Court for permission to write bonds within this judicial district. The petition shall contain the following information.

1. The business name under which the new company will be operating and the street address and the business telephone number for the bonding company office, which shall be located **in the Fifteenth (15th) Judicial District.**
2. A copy of the business license issued **for the bonding company in the county where such business is located within the Fifteenth (15th) Judicial District.**
3. A copy of all organizational documents (e.g. corporate charter, partnership agreement) and all other agreements or documents pertaining to the identity of the owners and interest holders in the said company, the distribution of profits from the said company, the source of all funds used to establish the company, and the names and signatures of those persons who accept personal liability for forfeiture judgments.
4. A statement of whether the company or any of its owners, shareholders, or partners write bonds in any other jurisdiction. If such company or persons do write bonds in other jurisdictions, the application shall identify those jurisdictions and attach a listing identifying any surety posted with that jurisdiction, a copy of

the last semi-annual reports filed with the said jurisdictions along with a listing of all pending conditional forfeitures and final forfeitures.

5. Identify the funds and source of said funds to be filed with the Clerk to establish the bonding capacity.

6. For all persons identified in paragraph 4 above attach a sworn statement from each individual stating the following:

a. A list of all prior criminal charges, whether resulting in a conviction or not, along with the disposition of the charge and the jurisdiction, as well as all other information required by T.C.A. 40-11-317.

b. Describe all relations to any other owner, interest holder or agent of bail bond company authorized to do business in the 15th Judicial District.

c. A statement as to whether such person has ever been an owner interest holder or agent for any other bail bond company in this state or any other state.

d. A statement as to whether such person is related, by blood or marriage to any person who works for the Circuit Court Clerks or Sheriffs of the 15th Judicial District.

e. A statement of personal liability of the applicant for the bonding companies liability.

7. A copy of the proposed bail bond contract shall be attached.

8. A statement that the officers/owners of the bonding company and its proposed agent have read and are aware of the requirements of T.C.A. 40-11-301, *et seq.* and 40-11-401, *et seq.*, pertaining to the Rules Governing Professional Bondsmen and Requirements for Continuing Education and the Rules of the Court governing bonding companies.

B. All petitions for approval of a new company shall be filed in the Criminal Court and a copy served upon the District Attorney General at least two (2) weeks prior to a hearing on the petition. Such hearing shall be held in the Criminal Court. The District Attorney General shall conduct a criminal history and background investigation on the owner of the company and its agents. The results of the background investigation shall be furnished to the Court. A Criminal Court Judge shall conduct a hearing to consider the bonding company's petition. The District Attorney General shall be present at such hearing and represent the State.

RULE 3--COLLATERAL

A. The amount of funds pledged by the bonding companies as a condition precedent to writing bonds will vary from county to county based upon population. The amounts required to be pledged are as follows:

Jackson County	--	\$25,000.00
Macon County	--	\$25,000.00
Smith County	--	\$25,000.00
Trousdale County	--	\$25,000.00
Wilson County	--	\$75,000.00

Notwithstanding the above, any approved company who has posted the minimum security for any one county within the 15th Judicial District shall be allowed to write a bond or bonds of up to fifteen (15%) percent of the deposited security in any other county of the 15th Judicial District. At the time of doing so they must provide a letter signed by an officer or agent of said company stating that they are in good standing with the Clerk of the Court in which county or counties they do write bonds to the Sheriff and Circuit Court Clerk within a twenty-four (24) hour period or the next business day.

B. Effective January 1, 2001, any person or company filing a petition for approval for a professional bail bond company within the 15th Judicial District of Tennessee is required to post a minimum amount of cash with the Circuit Court Clerk as security for bonds to be written in that particular county. Said funds shall be deposited in one of the following methods.

1. A Certificate of Deposit in the sum that is required for that County in the joint names of said Bonding Company and the Circuit Court Clerk of all counties wherein the bonding company writes bonds, or
2. An irrevocable letter of credit in the amount of not less than the minimum required for the County from any federally insured financial institution located within the 15th Judicial District or any location approved by the Court, that states therein that it shall remain in force until released by the Criminal Court Judge, or

3. A cash deposit of not less than the sum that is required for the County wherein the bonding company requests to write bonds to said Circuit Court Clerk.
- C. No real property collateral will be accepted by the Court.
- D. Any bonding company approved by the Court after January 1, 2001, may write total bonds in an amount equal to twelve (12) times the amount of cash security posted with the court clerk. No bonding company shall be allowed to write any one single or blanket bond in excess of twenty (20) percent of its available bonding capacity as determined by the clerk on a weekly basis.
- E. Any bonding company who was approved by this Court prior to January 1, 2001, shall refile their petition for approval to write appearance bond within each county in which they request to make said bonds. If re-approved they may write bonds twelve (12) times the amount of cash security posted with the Court. Any increase in bonding capacity by a bonding company who was approved prior to January 1, 2001, shall be made upon approval by the Criminal Court Judge, upon notice to the District Attorney General, by cash deposit and the new collateral posted shall increase the company's capacity by a twelve to one ratio. No bonding company approved prior to January 1, 2001 shall be allowed after January 1, 2001, to write any one single or blanket bond in excess of twenty (20) percent of its available bonding capacity as determined by the clerk on a weekly basis.
- F. Upon a Judgment of Final Forfeiture by the Court of the Clerk may satisfy such Judgment from the posted collateral upon notice to the affected bonding company and the District Attorney General.

RULE 4—FORFEITURES

- A. Bonding companies which have exceeded their forfeiture limit at the time of the monthly report prepared by the Clerk shall be immediately notified in writing. Once notice is received the bonding company shall have 10 days to come into compliance or it will be automatically suspended, be removed by the Clerk from the approved list, and the Clerk shall immediately notify the Criminal Court Judge District Attorney General, and the Sheriff within each county of this district of said suspension. The bonding

company shall not be allowed to write any additional bail bonds until the forfeitures are again within the company's allowable limits.

B. The Court shall have the authority to charge a penalty not to exceed One Hundred Dollars (\$100.00) payable to the Clerk of the Court, together with the cost as a result of a conditional forfeit, or to set aside a forfeit.

RULE 5--COMPANY CHANGES

A. Any changes to a bonding company's address or telephone number from that noted in the original petition must be sent in writing to the Circuit Court Clerk.

B. Any changes to a bonding company's name, ownership or agents as submitted in the original petition must be submitted in writing and approved by order of a Criminal Court Judge.

C. Any material changes to the financial statements submitted to the Court must be corrected and filed with the Clerk.

D. Any changes in the employment status of agents must be submitted in writing within ten (10) days of said change and be approved by the supervising judge

RULE 6--ACTIVITIES OF BAIL AGENTS

A. As provided by T.C.A. 40-11-126, no bondsman or bonding company shall solicit business in any place where prisoners are confined. Such places include the Courthouse, Criminal Justice Center, jail, and the areas within one hundred (100) feet of the public entrances thereto. No bonding company employee or agent shall initiate contact with a defendant or their family in order to obtain their business. Contact with a defendant who is a potential client will be allowed only after the bonding company has been contacted by the defendant or someone authorized to act on their behalf. All agents or employees of a bonding company shall conduct themselves in accordance with all the rules and orders of the Sheriff of the county wherein the company is authorized to write bonds, while performing required duties within such buildings. Penalty for first violation of this provision is a suspension of not less than ninety (90) days. Penalty for second violation of this provision is a suspension of not less than six (6) months and the offender must repetition the Court for reinstatement.

B. A bonding company shall notify the defendant/principal of each court appearance. Such representative shall be readily available as needed by a court whenever a defendant fails to appear at the call of the docket.

C. Each agent will be responsible for providing a copy of their certificate of compliance for their continuing education credits in compliance with T.C.A. 40-11-401, et seq. to the Clerk of the Court annually. This notice must be provided on or before January 1, 2001, and each year thereafter.

RULE 7—PREMIUMS

A. Bondsman shall accept premiums and initiation fees as governed by T.C.A. 40-11-126. All funds or negotiable instruments accepted in payment or in satisfaction of the premium and the initiation fee shall be recorded and itemized by the bonding company. A copy of said record documenting the premium and initiation fee received shall be provided to the defendant, or the agent acting in the defendant's behalf, and shall be maintained as a part of the ordinary daily business of said company. If funds or negotiable instruments are accepted as collateral, the bonding company shall: (1) deposit such collateral into a separate trust account pending its redemption, (2) shall identify the account or principal to which the collateral applies, and (3) shall provide the person providing the collateral with the identity of the institution in which the collateral is held. In the event that a bail bonding company received funds for a premium or initiation fee and elects not to post the bond for the defendant/principal then any funds received shall be immediately returned to the defendant or the person acting on the defendant's behalf.

B. Every bondsman and/or agent must use a duplicate receipt book to record all payments for premiums. A copy of the receipt must be given to the defendant or the person acting on their behalf. Receipts must include:

1. Specific description of all property, including cash or checks, received from the defendant or someone acting on the defendant's behalf, and
2. Signature of the defendant or the person acting on his/her behalf tendering the said funds.

C. No bond may be secured, guaranteed, or otherwise indemnified by a contract which purports to be a promissory note, indemnification contract, hold harmless agreement, or guaranty from a company, bondsman not approved as a bonding company by this Court.

RULE 8--REPORTS AND REQUIRED RECORDS

A. It shall be the responsibility of the bonding company that all bonds shall be fully completed upon the release from custody of the defendant/principal on bond. The bail bond contracts shall:

1. Have the name, address and zip code number of the defendant legibly printed thereon,
2. Be signed by the agent making said bond,
3. Have the name of the bonding company boldly and legibly stamped or printed thereon,
4. Identify the property used to pay the premium and initiation fee as well as any other property received as collateral for said bond, and
5. Have a copy of a photo identification of all persons (except the defendant/principal) delivering such premiums, fees or collateral to the agent if the bond is \$75,000.00 or above.

B. Any bonding company authorized by the Criminal Court shall file with the Court Clerk an semi-annual financial report pursuant to T.C.A. 40-11-303. Such reports shall include, but not be limited to a listing of:

1. All current, active qualified bonding agents approved for said company.
2. Any outstanding civil performance or cost bonds.
3. All persons having financial or managerial interest in a bonding company must be identified annually, and
4. A certificate of compliance for the continuing education credits for each agent must be furnished annually.

C. Upon the failure of any company to file this report or any other record or document required by statute or these local rules, the Court Clerk shall notify the supervising Judge who shall suspend and remove the company from the approved list.

In such an event, the company shall not be allowed to write any bonds until such time as all the requirements are met and there has been approval, in writing, from the supervising Judge. In the event the bonding company disputes the suspension, it may petition the Court to reconsider the suspension.

RULE 9--SUSPENSION OF BONDING COMPANY OR AGENTS

A. Every bonding company acts as an agent of the Court and the conduct of the bonding company constitutes an integral part of the operation of the Court. The Court may impose any limits or conditions necessary to insure the professional standing and reliability of the bonding company. Such measures, if any, shall be made in the public interest to avoid a conflict of interest or an appearance of impropriety on the part of the bonding company. Pursuant to the provisions of T.C.A. 40-11-125 and T.C.A. 40-11-126 the Court may take appropriate disciplinary action including the withholding, suspension or termination of the approval to do business if it appears to the Court that it is in the public interest to take such action. For good cause, the Court may issue a restraining order, writ or other process without notice to the company if deemed necessary in the public interest. Any such action will be reviewed at a hearing within five (5) days after notice to the company and the District Attorney General who shall represent the State at the hearing.

B. Pursuant to the provisions of T.C.A. 40-11-125 and T.C.A. 40-11-126 the Court may take appropriate disciplinary action including the withholding, suspension or termination of approval for a bondsman to act as agent for an approved bonding company, if the agent:

1. Has been convicted of a crime of dishonesty, any felony or any alcohol or drug related offense;
2. Has a final judgment of forfeiture entered against the bonding company that remains unsatisfied which the agent authorized;
3. Has failed to comply with any local rules; or
4. Is guilty of unprofessional conduct that includes, but is not limited to
 - a. Loitering about the jail or court premises and within the prohibited areas to solicit business;
 - b. Suggesting or advising the employment of, or otherwise referring, any particular attorney to represent the defendant;

- c. Paying a fee or giving or promising anything of value to any Clerk jailer, police officer, peace officer, committing Magistrate, or any other person who has the power to arrest or hold in custody, or to any public official or public employee to secure a bond, and/or a settlement, compromise, remission or reduction of the amount of any bail bond or the forfeiture thereof, paying a fee or rebate or giving anything of value to an attorney in bail bond matters, except in legal representation of any action pertaining to the bail bond company or action;
- d. Surrendering a principal without good cause;
- e. Accepting anything of value from a principal except the premium provided, however, that the bondsman shall be allowed to collect collateral, security or other indemnity required by the bondsman it reasonable in relation to the amount of the bond and where the said bondsman is reasonable in relation to the amount of the bond and where the said bondsman accepting such collateral delivers a written receipt for the same which receipt described in detail the collateral received and the term of redemption;
- f. Accepts anything of value as payment for a premium or collateral after the defendant/principal is released from custody, except as authorized under Rule 7(D).

RULE 10--INDIVIDUAL BONDS

- A. Any individual who desires to post a real property bond pursuant to T.C.A. 40-11-122 shall submit a current title opinion for said real property reflecting the encumbrances thereon. The appraised value/equity of the property owner providing said surety must equal one and one-half times the amount of the bond. The property owner providing said surety must comply with all regulations as set forth by the Office of the Court Clerk.
- B. Any individual who desires to deposit a cash bond with the Clerk pursuant to T.C.A. 40-11-118 shall be notified in writing by the Clerk that such cash deposit shall be returned less any fines, court costs or restitution as ordered by the Court.
- C. Upon release from jail, or at first appearance to booking authorities upon receipt of a citation, the Clerk shall notify the defendant in writing of the initial court appearance.

The Clerk shall retain proof of such notification. Each defendant shall provide to the Clerk before release on a property or cash bond an address where notification of a court date may be delivered. It shall be the responsibility of the defendant to notify the Clerk of any change of address.

RULE 11--OFFICIAL LIST OF AUTHORIZED BONDING COMPANIES

A separate petition for writing bail bonds shall be filed with the Clerk of the Criminal Court in each county in which the bonding company requests approval. If approved, the order approving the bonding company shall be filed with said Clerk and the name, address and phone number of said company is to be placed on the official list of bonding companies approved for that county. A certified copy of the list shall be mailed to the Sheriff of the county in which said bonding company is authorized to write bonds.

RULE 12--AMENDMENTS

These rules may be amended from time to time by the Criminal Court Judges. Upon amendment, the Circuit Court Clerk shall notify all approved bonding companies in the 15th Judicial District, The District Attorney General and the Sheriff by certified mail, return receipt requested, or by personal delivery with a signed receipt for the same. Upon receipt of notice, all bonding companies shall comply with said amendments.

These Rules are approved and effective this 5 day of March, 2013.



**HONORABLE DAVID E. DURHAM
CRIMINAL COURT JUDGE**