

IN THE CRIMINAL COURT FOR THE NINTH JUDICIAL DISTRICT
MEIGS, MORGAN, LOUDON AND ROANE COUNTY

LOCAL RULES OF COURT FOR PROFESSIONAL BONDSMEN

These local rules are adopted in conformity with *Tennessee Supreme Court Rule* 18 for the Criminal Court for the Ninth Judicial District and are intended to establish workable guidelines consistent with fairness, uniformity, and simplicity in procedure.

These rules are in addition to and not a substitute for the Local Rules of Practice for the Ninth Judicial District. Some of these rules may be waived or modified by the Court when the Court finds that justice requires the waiver or modification.

Definitions. The following definitions apply to terms used in these rules:

(a) *Clerk.* The Criminal Court Clerk, or his/her designees.

(b) *Court.* Criminal Court for the Ninth Judicial District

(c) *District.* The Ninth Judicial District

(b) *Professional bondsman or bonding business.* Any person, firm, partnership or corporation, engaged for profit in the business of furnishing bail, making bonds or entering into undertakings, as surety, in criminal proceedings, or for the appearance of persons charged with any criminal offense.

Rule 1. Petitions for Approval of a Professional Bondsman

A. Petitions for approval of a professional bondsman in the Ninth Judicial District shall be filed in the Office of the **Criminal Court Clerk of Roane County** regardless of which county or counties in the District approval is sought.

B. The Criminal Court Judge shall have the authority to approve each person, firm, partnership or corporation who petitions the Court to do business as a professional bondsman. The petition shall contain the following information:

1. The business name under which the professional bondsman will be operating, the address of a permanent business office, **which shall be located in the Ninth Judicial District**, the business telephone number, email address, and a photograph of the appropriate signage indicating that the office is a professional bail bond business.

2. A copy of the business license issued for the bonding business in the county where said business's office is located.

3. A copy of all organizational documents (e.g. corporate charter, partnership agreement, etc.) and all other agreements or documents pertaining to the identity of the owners and interest holders in the said business.

4. All persons seeking to do business as a professional bondsman shall attach a sworn declaration containing 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 where the charge or conviction occurred. In addition, the petitioner shall submit to a criminal history background check by the Tennessee Bureau of Investigation (TBI) as provided for under T.C.A § 38-6-109 and attach a copy of the TBI background check to the petition.

(b) A statement indicating whether the bonding business or any of its owners, shareholders, partners, or agents write bonds in any other jurisdiction. If such business or its agents do write bonds in other jurisdictions, the petitioner shall identify those jurisdictions and attach a copy of the last semi-annual report filed with said jurisdiction along with a listing of all pending conditional forfeitures and final forfeitures.

(c) A statement describing all relations to any other owner, interest holder or agent of a bonding business authorized to write bonds in the District.

(d) A statement as to whether such person has ever been an owner, interest holder or agent for any other bonding business in this state.

(e) A statement that such person has at least two (2) years' experience writing bail in this state as a full-time qualified agent for a Tennessee bonding business in good standing.

(f) A statement as to whether such person has individually or as a corporation owner been discharged in a bankruptcy proceeding leaving unsatisfied outstanding forfeitures with any court.

(g) A statement that such person is not a jailer, attorney, police officer, convicted felon, committing magistrate, municipal or magistrate court judge, clerk or deputy clerk, sheriff, deputy sheriff and constable, and any person having the power to arrest or having anything to do with the control of federal, state, county or municipal prisoners.

(h) A statement as to whether such person is related, by blood or marriage, to any person employed in a Criminal, Circuit, or General Sessions Court Clerk's office or Sheriff's department of any county located in the District.

(i) A statement that the officers/owners of the proposed bonding business have read and are aware of the requirements of T.C.A. §40-11-301 et seq. Professional Bondsmen and §40-11-401 et seq., Continuing Education for Professional Bail Bonding Agents. In addition, a certificate of compliance of T.C.A. §40-11-401 for the satisfactory completion of continuing education shall be attached to the petition.

5. A copy of the proposed bail bond contract shall be attached to the petition.

Procedure: After a petition is filed, the Clerk will forward a copy of the petition to the Criminal Court Judge who may grant approval without a hearing. In the event a hearing is required, the Clerk will forward a copy of the petition to the District Attorney General at least two (2) weeks prior to the hearing date. The District Attorney General or an Assistant District Attorney General shall be present at the hearing to represent the State. If the Court grants the petition, the professional bondsman shall be responsible for drafting the order and submitting it to the Court for approval.

C. Petitions for approval of a **bail bond agent** in the District shall be filed in the Office of the **Criminal Court Clerk of Roane County** regardless of which county or counties in

the District approval is sought. The petition shall contain a sworn declaration from the proposed bail bond agent 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 where the charge or conviction occurred. In addition, the petitioner shall submit to a criminal history background check by the Tennessee Bureau of Investigation (TBI) as provided for under T.C.A § 38-6-109 and attach a copy of the TBI background check to the petition.

(b) A statement describing all relations to any other owner, interest holder or agent of a bonding business authorized to write bonds in the District.

(c) A statement as to whether such person has ever been an owner, interest holder or agent for any other bonding business in this state.

(d) A statement as to whether such person has individually or as a corporation owner been discharged in a bankruptcy proceeding leaving unsatisfied outstanding forfeitures with any court.

(e) A statement that such person is not a jailer, attorney, police officer, convicted felon, committing magistrate, municipal or magistrate court judge, clerk or deputy clerk, sheriff, deputy sheriff and constable, and any person having the power to arrest or having anything to do with the control of federal, state, county or municipal prisoners.

(f) A statement as to whether such person is related, by blood or marriage, to any person employed in a Criminal, Circuit, or General Sessions Court Clerk's Office or Sheriff's department in the Ninth Judicial District.

(g) A statement that the proposed agent has read and is aware of the requirements of T.C.A. §40-11-301 et seq. Professional Bondsmen and §40-11-401 et seq., Continuing Education for Professional Bail Bonding Agents. In addition, a certificate of compliance with T.C.A. §40-11-401 for the satisfactory completion of continuing education credits shall be attached to the petition.

Procedure: After a petition is filed, the Clerk will forward a copy of the petition to the Criminal Court Judge who may grant approval without a hearing. In the event a

hearing is required, the Clerk will forward a copy of the petition to the District Attorney General at least two (2) weeks prior to the hearing date. The District Attorney General or an Assistant District Attorney General shall be present at the hearing to represent the State. If the Court grants the petition, the professional bondsman be responsible for drafting the order and submitting it to the Court for approval.

Rule 2. Collateral

A bonding business approved to write bonds in the District may, in lieu of cash or real property being posted as collateral, enter into an agreement with a licensed insurance company whereby the insurance company acts as surety and/or indemnitor for the bail bonds written by the bonding business. All other bonding businesses are required to deposit a minimum of Fifty-Thousand Dollars (\$50,000.00) collateral with the Court pursuant to the procedure and form set forth in T.C.A. § 40-11-302 (h). The bonding business's capacity will be set in accordance with T.C.A. § 40-11-302 (e) and at the Court's discretion.

Rule 3. Official List of Authorized Bonding Businesses

If a bonding business is approved to write bonds in the District, the Clerk will ensure that its name, address and telephone number are placed on the official list of authorized bonding businesses. A certified copy of the list shall be provided to the Sheriff indicating the bonding business is authorized to write bonds in the county. A separate list of approved bonding agents shall be compiled by the Clerk and provided to the Sheriff. The bonding business shall be responsible for providing the Clerk with the name, address and telephone number of all authorized agents acting on its behalf.

Rule 4. Business Modifications

A. All petitions for approval to change the name or ownership of a bonding business shall be filed with the Clerk. The Clerk will forward a copy of the petition to the Criminal Court Judge for consideration. A hearing on such changes may be required at

the discretion of the Court. In the event a hearing is required, the Clerk will forward a copy of the petition to the District Attorney General at least two (2) weeks prior to the hearing date. The District Attorney General or an Assistant District Attorney General shall be present at the hearing to represent the State. The petition must be approved by written order of the Court before such change may take effect.

B. Any changes to a bonding business's address, telephone number, or email address from those listed in the original petition for approval must be sent in writing to the Clerk within ten (10) days of said change.

C. In the event a bonding agent is no longer employed by a bonding business for any reason, the bonding business shall file a motion with the Clerk to remove the agent from the approved list of bonding agents within ten (10) days of the change in employment. The Clerk will forward the motion to the Criminal Court Judge for consideration. A hearing on the motion may be required at the discretion of the Court. The bonding business will be responsible for drafting the order removing the agent from the approved list and submitting it to the Court for approval.

Rule 5. Reports and Required Records

A. Prior to the defendant's release from custody, the professional bondsman shall ensure that all bonds and/or contracts are complete in accordance with T.C.A. § 40-11-114, and shall contain the following:

1. The defendant's name, address and telephone number legibly printed thereon,
2. The signature of the agent making the bond and the defendant's signature,
3. The name of the bonding business boldly and legibly stamped or printed thereon,
4. The date the defendant is required to appear in court, and
5. The amount of the bond and the conditions of the defendant's release while out on bond.

B. Pursuant T.C.A. § 40-11-303, every professional bondsman shall file with the Clerk semi-annual financial reports no later than January 31st and July 31st of each year. The Clerk will notify the Criminal Court Judge upon the filing of the reports and make them available for the Judge's review to ensure compliance with the statute.

C. A professional bondsman and his/her agent(s) shall provide a copy of his/her certificate of compliance for the continuing education credits in compliance with T.C.A. § 40-11-401 to the Clerk in each county the professional bondsman or agent is approved to make bonds. The certificate shall be filed on or before January 15th of each year.

D. Upon the failure of any professional bondsman or his/her agents to file the above-mentioned reports, or any other record or document required by statute or these local rules, the Clerk shall notify the Criminal Court Judge who may suspend and remove the professional bondsman or agent from the approved list. In such an event, the professional bondsman or agent may be suspended from writing any bonds until such time as all requirements are satisfied and there has been approval, in writing, from the Court. In the event the professional bondsman or agent disputes the suspension, he/she may petition the Court to reconsider the suspension.

Rule 6. Prohibited Activities of Professional Bondsmen

A. A professional bondsman and/or his/her agents shall not engage in any unprofessional conduct listed in T.C.A. § 40-11-126, or any prohibited practices set forth in T.C.A. §§ 40-11-307 -- 40-11-310. In addition, professional bondsmen shall not violate any rules or orders of a Sheriff while performing their required duties on the premises of any jail or justice center.

B. No bonding agent shall write bonds or be involved in the business activities of more than one bonding business in the District. There is no prohibition against a professional bondsman from owning or having a financial interest in more than one bonding business in the District if:

- (a) Such interest is revealed to the Court, and
- (b) Each bonding business has its own business license, a separate business address and telephone number, and

- (c) Each bonding business has its own separate agents who write bonds only for that bonding business.

Rule 7. Suspension of Bonding Business or Agent

Pursuant to the provisions of T.C.A. §§ 40-11-125 and 40-11-306, the Court may take appropriate disciplinary action against a bonding business or its agent(s) for violating bonding statutes or these local rules. The Court may withhold, suspend, or terminate the bonding business's approval to write bonds. The Court shall notify the bonding business or agent in writing of the action taken. If, within twenty (20) days after notice, the bonding business or agent files a written answer denying the charges or setting forth extenuating circumstances, the Court shall set the matter for a hearing in accordance with T.C.A. § 40-11-125(b).

Rule 8. Bond Forfeitures

If a defendant released from custody on a secured bail bond fails to appear in court, the Court may enter a conditional forfeiture against the defendant, the professional bondsman and/or surety, or grant an extension. If a conditional forfeiture is entered, the Clerk will send a copy by regular mail to the defendant at his/her last known address. Also, a writ of scire facias shall be issued giving the defendant and his/her sureties notice of a date for a hearing to determine if the conditional forfeiture should become a final forfeiture. The hearing date shall be held no less than 180 days from the date the writ of scire facias is served on the professional bondsman or surety. At this hearing, a professional bondsman or surety may petition the court for relief from the forfeiture. No final forfeiture shall be issued without providing the defendant and his/her sureties a hearing.

Rule 9. Exoneration from Bail Bonds/Forfeitures

In the event a defendant out of custody on a bail bond pursuant to T.C.A § 40-11-122 fails to appear for a scheduled court date or violates any other condition of his/her

bond, a professional bondsman or surety may seek the Court's permission to be exonerated or released from the bail bond. It has come to the Court's attention that it would be helpful if there was a uniform procedure to address how the Court handles these matters.

A. **Surrender**: A professional bondsman or his/her agent may seek to be exonerated from a bail bond by surrendering the defendant to the custody of the sheriff's department. The reasons allowing for the defendant's surrender are set forth in T.C.A § 40-11-132 which provides as follows:

At any time, the bail bondsman or surety may surrender the defendant in their exoneration or the defendant may personally surrender to the officer. Surrender by a bail bondsman or surety shall be for good cause including, but not limited to, the following:

- (1) The defendant has violated the contractual provisions between the defendant and the bondsman;
- (2) The bondsman or surety has good cause to believe the defendant will not appear as ordered by the court having jurisdiction;
- (3) A forfeit, conditional or final, has been rendered against the defendant;
- (4) The defendant has failed to appear in court either as ordered by the court or as commanded by any legal process; or
- (5) The defendant has been arrested while on bond.

After a professional bondsman surrenders a defendant, T.C.A. § 40-11-137 sets forth the process a professional bondsman and a court will follow, depending on the reason for the surrender. Some of the reasons require a hearing and some (i.e. conditional or final forfeiture) do not.

(a) Upon surrendering the defendant, the bail bondsman or surety shall, as soon as is reasonably practicable, go before any court having jurisdiction authorized to admit to bail, and notify the officer of the surrender.

(b)(1) Any court having jurisdiction so notified shall have the defendant brought before it as soon as practicable, and within seventy-two (72) hours, and determine whether or not the surrender was for good cause.

(2)(A) If the court having jurisdiction finds that the surrender was arbitrary or not for good cause, it may order the defendant rereleased upon the same undertaking or impose other conditions as provided by law.

(B) If the surrender is found to be for good cause, the court having jurisdiction shall approve the surrender by endorsement upon the bail bond or by other writing, and it shall be the duty of the surrendering bail bondsman to deliver the written approval or copy of the approval to the sheriff.

(3) This subsection (b) shall not apply where a surrender is based on a conditional or final judgment of forfeiture issued by the court having jurisdiction over the defendant.

(c) The court shall fix the amount of premium to be refunded, if any.

T.C.A. § 40-11-137.

Procedure: (1) After the professional bondsman surrenders the defendant to the sheriff, he/she shall set forth in a notice of surrender all reasons by which the defendant was surrendered. (2) The professional bondsman, in a timely manner, shall file the notice of surrender with the Clerk in the county where the defendant was surrendered. (3) The Clerk will file stamp the notice of surrender and notify the Criminal Court Judge of the surrender. (4) The defendant shall be provided a copy of the notice of surrender. (5) If the defendant was surrendered for a reason which requires a hearing, a hearing will be held within seventy-two (72) hours to determine if the surrender was for good cause. (6) The defendant and the professional bondsmen or his/her agent shall be present at the hearing. (7) The defendant has the right to waive a surrender hearing, but such waiver must be done in writing or in open court. (8) If the Court finds the surrender was for good cause, the bonding business will be released from any obligation on the bond and the defendant's bond shall be revoked. (9) The sheriff's department will be notified of the bond revocation and the defendant will be required to re-post his/her original bond before he/she is released from custody. (10) If the Court finds that the surrender was arbitrary or not for good cause, it may order the defendant

rereleased upon the same undertaking or impose other conditions as provided by law.

A. Capias/Fugitive from Justice: A professional bondsman or his/her agent may seek exoneration from a bail bond pursuant to T.C.A § 40-11-139 if (a) the defendant was arrested on a capias for failure to appear, or (b) the defendant was charged with failure to appear or a bench warrant was issued for the defendant's failure to appear on a felony or on a Class A or Class B misdemeanor that is violent or sexual in nature, and the defendant was not placed on any available state or federal list or database as a fugitive from justice within ten (10) business days of the defendant's failure to appear.

Procedure: (a) (1) If a defendant is arrested on a capias, the professional bondsman or his/her agent shall notify the Court as soon as reasonably practical. (2) The professional bondsman and or agent shall provide the Court with documentation evidencing the defendant was arrested on a capias, such as a copy of the booking sheet signed by a jailer or sheriff's deputy. (3) If the Court determines the documentation is sufficient, the professional bondsman or surety may be released from the bond without a hearing and the defendant's bond shall be revoked. (4) The sheriff's department will be notified of the bond revocation and the defendant will be required to re-post his/her original bond and any bond on the capias before he/she is released from custody. (5) In the event a hearing is required, the Clerk will notify the District Attorney General at least five (5) days prior to the hearing date.

(b) (1) In the event a professional bondsman learns that a defendant was charged with failure to appear or a bench warrant was issued for the defendant's failure to appear and the defendant was not placed on any available state or federal list or database as a fugitive from justice within ten (10) business days, the professional bondsman shall file a motion for relief with the Clerk as soon as reasonably practical. (2) The motion shall contain appropriate documentation demonstrating that the professional bondsman is entitled to relief from the bond under the statute. (3) The Clerk will forward a copy of the motion to the Court which

may grant the motion without a hearing. (4) In the event a hearing is required, the Clerk will notify the District Attorney General at least five (5) days prior to the hearing date.

C. **Detainer:** A professional bondsman or his/her agent may seek exoneration from a bail bond pursuant to T.C.A § 40-11-201(c) if a defendant is arrested in another jurisdiction and being detained in a jail or prison either in this state or out of state.

Procedure: (1) As soon as a professional bondsman or surety receives information that a defendant out of custody on a secured bail bond is arrested and detained in another jurisdiction, the professional bondsman shall request that a detainer be issued and filed with the detaining authority. (2) If the detainer is issued and filed with the detaining authority, the professional bondsman shall file a motion for relief with the Clerk as soon as reasonably practical. (3) The motion shall contain appropriate documentation of the filing of the detainer. (4) The Clerk will forward a copy of the motion to the Criminal Court Judge which may approve the motion without a hearing and the professional bondsman or surety will be exonerated from the bond. However, the professional bondsman or surety will be responsible for the costs of returning the defendant to the District (not to exceed the original amount of the bond). (5) In the event a hearing is required, the Clerk will notify the District Attorney General at least five (5) days prior to the hearing date. (6) If the request for detainer is refused or the detaining authority releases the defendant notwithstanding the filing of the detainer, the professional bondsman shall file a motion for relief with the Clerk and provide appropriate documentation of either of these events. (7) The Clerk will forward a copy of the motion to the Criminal Court Judge which may approve the motion without a hearing. (8) In the event a hearing is required, the Clerk will notify the District Attorney General at least five (5) days prior to the hearing date. (9) If a professional bondsman is granted exoneration or relief pursuant to T.C.A § 40-11-201(c), the defendant's bond will be revoked, the sheriff's department will be notified of the bond revocation and the defendant will be required to re-post his/her original bond before he/she is released from custody.

Rule 9. Legal Representation

The Court recognizes that not all professional bondsmen are required to obtain legal counsel prior to making an appearance in court. An individual sole proprietor professional bondsman, or his/her agent, shall be permitted to answer court, file requests for exoneration, surrender a defendant, obtain an extension of time, respond to a court's request for information, defend any suspension or termination, or any other matter concerning the bail bonding business, without the necessity of obtaining legal counsel. See T.C.A. §§ 40-11-125(b), and 40-11-302(f). These statutes treat individual sole proprietor professional bondsman and his/her agents as though they are *pro se* litigants in civil or criminal court.

Any corporation or limited liability corporation doing business as a professional bondsman or surety shall be represented by legal counsel on all matters concerning the bonding business before the Court. See *Old Hickory Eng'g & Mach. Co. v. Henry*, 935 S.W.2d 782, 786 (Tenn. Ct. App. 1996) and Tenn. Op. Atty. Gen. No. 05-036 (Tenn. A.G.), 2005 WL 998604.

Rule 10. Amendments

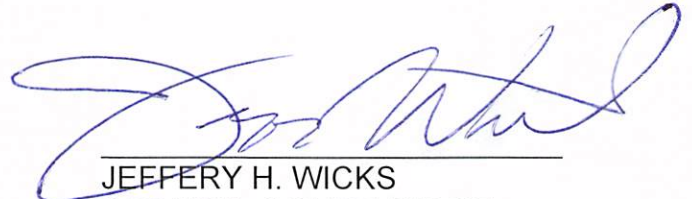
These Rules may be amended from time to time by the Court. Upon amendment, the Clerk shall notify all bonding businesses in the District by certified mail. Upon receipt of the notice, all bonding businesses shall comply with the amended rules.

WHEREFORE, IT IS HEREBY, ORDERED, AND ADJUDGED, that the foregoing Rules are adopted, and copies of these Rules be made available for distribution, without charge, through the Clerk's Office, to all practicing attorneys and the public at large.

IT IS FURTHER ORDERED, that these Rules shall become effective on the **15th day of December, 2024**, to all professional bondsmen seeking approval to write bonds in the District.

IT IS FURTHER ORDERED, that these Rules shall become effective on the **15th day of January, 2025**, to all professional bondsmen currently qualified to write bonds in the District.

ENTER this the 13th day of November, 2024.



JEFFERY H. WICKS
CRIMINAL COURT JUDGE