

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulations
Maryland Insurance Administration
(DLS Control No. 15-142)**

Overview and Legal and Fiscal Impact

The regulations amend COMAR 31.03.05, concerning standards for insurance producers providing bail bondsman services under Title 10, Subtitle 3 of the Insurance Article.

The regulations present no legal issues of concern.

There is no fiscal impact on State or local agencies.

Regulations of COMAR Affected

Maryland Insurance Administration:

Insurance Producers and Other Insurance Professionals: Bail Bonds:
COMAR 31.03.05.01, .02, .03, .04, .05, .06, .07, .08, .09, .10, .11, and .12

Legal Analysis

Background

The regulations were originally published in the February 7, 2014 issue of the *Maryland Register*. For a detailed discussion of the original regulations, please see the legal and fiscal analysis for DLS Control No. 418-13. A reproposal of the regulations was then sent to this committee on November 25, 2014, but was never published in the *Maryland Register*. For a detailed discussion of the repropose regulations, please see the legal and fiscal analysis for DLS Control No. 14-367. In order to address additional comments, the Maryland Insurance Administration allowed the original proposal to lapse and has submitted this new proposal, which is identical to the reproposal except for one phrase in Regulation .08E, described below.

Summary of Regulations

The regulations make technical and clarifying changes to amended Regulation .02, which provides definitions for the chapter. Specifically, the regulations correct a failure to arrange definitions in alphabetical order and amend the definition of “surety insurance producer” to include “a licensed insurance producer who, for compensation, sells... surety insurance contracts”.

The regulations amend provisions in Regulation .03 concerning the solicitation, negotiation, or procurement of bail bonds to also include the sale of bail bonds. Similarly, the

regulations amend provisions in Regulations .04 and .07 concerning individuals who solicit, negotiate, or procure bail bonds to also include individuals who sell bail bonds.

The regulations amend Regulation .07, concerning rates. The regulations provide that a bail bondsman who sells, solicits, procures, or negotiates a bail bond under specified circumstances commits an unfair trade practice and violates § 27–216 of the Insurance Article. As originally proposed, these prohibited actions were deemed unfair business practices and violations of § 10–126 of the Insurance Article.

New Regulation .08 sets out requirements for an indemnity agreement. The one difference between the current proposal and the last reproposal is the deletion of the phrase “, PAID WITHIN FIVE WORKING DAYS,” from the disclosure statement required under Regulation .08E.

The regulations include new Regulation .09, concerning installment agreements. New Regulation .09E requires a bail bondsman to provide the person signing the installment agreement a copy of the installment agreement and a receipt containing the amount of the down payment.

The regulations include new Regulation .12, concerning forms. The regulations require a bail bondsman to provide the person signing an indemnity agreement with a copy of each document relating to the bail bond at the time the bail bondsman services are provided.

The regulations amend renumbered Regulation .13, concerning collateral. New Regulation .13B requires a bail bondsman to provide a copy of the affidavit to the person signing the indemnity agreement or the person signing the collateral agreement.

Finally, the regulations repeal existing Regulation .12, concerning pretrial release.

Legal Issue

The regulations present no legal issue of concern.

Statutory Authority and Legislative Intent

The administration cites §§ 2–108, 2–109, 10–126, and Title 10, Subtitle 3 of the Insurance Article as statutory authority for the regulations. More specifically, authority for the regulations is provided in § 2–109(a)(1), which establishes the general authority of the Maryland Insurance Commissioner to adopt regulations to carry out the Insurance Article. Section 10-126 concerns denial of limited lines licenses and imposition of penalties. In addition, Title 10, Subtitle 3 concerns bail bondsmen. Section 10–303 authorizes the Commissioner to adopt regulations to carry out Title 10, Subtitle 3 of the Insurance Article. Section 2-108 provides general powers and duties of the Commissioner.

This authority is correct and complete. The regulations comply with the legislative intent of the law.

Fiscal Analysis

There is no fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The Maryland Insurance Administration (MIA) advises that the regulations have minimal or no impact on State or local governments. The Department of Legislative Services concurs and advises that, among other things, the regulations implement Chapters 243 and 244 of 2012, which authorize a bail bondsman to accept installment payments for a bail bond premium if specified conditions are met. The fiscal and policy notes for Chapters 243 and 244 advised that the bills did not materially affect State expenditures or revenues.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

MIA advises that the regulations have a potential meaningful impact on small business in the State. Small businesses that offer bail bonds services and choose to accept installment payments for premiums incur costs associated with implementing the requirements of the regulations, such as updating paperwork to include additional information and updating electronic systems to store required information. MIA advises that the impact is potential because bail bondsmen are not required to accept installment payments for premiums. Furthermore, MIA advises that many bail bondsmen who do accept installment payments for premiums are likely operating in a manner similar to what is required under the regulations. The Department of Legislative Services concurs with this assessment.

Contact Information

Legal Analysis: Robert K. Smith – (410) 946/(301) 970-5350

Fiscal Analysis: Richard L. Duncan – (410) 946/(301) 970-5510