

Normal Office Duties of an Unlicensed Employee Working in a Bail Bond Office

An unlicensed employee of a bail bondsman may not perform any task, function or job which requires a bondsman or runner's license. See N.C.G.S. § 58-71-40(a)(prohibiting *any person* from “act[ing] in the capacity of a professional bondsman, surety bondsman, or runner or perform[ing] any of the functions, duties, or powers prescribed for professional bondsmen, surety bondsmen, or runners under this Article unless that person is qualified and licensed under this article”). For example, the duties of accepting collateral and issuing receipts for collateral and the duty of filing an Affidavit of Surety (Bondsman) are expressly conferred on the bondsman under N.C.G.S. § 58-71-100(a) and 11 NCAC 13.0511, respectively. See N.C.G.S. § 58-71-100(a)(setting forth requirements which the bondsman must meet whenever accepting collateral, including that of giving a written receipt) and 11 NCAC 13.0511(requiring professional bondsman to file Affidavit of Surety containing certain information with clerk of court having jurisdiction over the principal). Thus, the unlicensed employee cannot negotiate collateral to be received on a bond, accept or return collateral on a bond, issue receipts for collateral, or execute an Affidavit of Surety.

N.C.G.S. § 58-71-40(e) provides that an unlicensed *employee* of a bail bondsman may perform “normal office duties.” See N.C.G.S. § 58-71-40(e)(stating that “[t]his section does not prohibit the hiring of personnel by a bail bondsman to perform only normal office duties. Normal office duties do not include acting as a bail bondsman or runner”). Thus, the bondsman may allow his/her unlicensed employees to perform normal office duties. However, *it is important to note that the bondsman will be held responsible for any errors which his/her unlicensed employees may make while performing normal office duties.*

The term “normal office duties” is not defined by statute. The NCDOI has interpreted the term as meaning clerical and other similar activities that occur in an office on a routine basis. In order to provide guidance to the bail bondsman,¹ the NCDOI has prepared the following list of illustrative examples of activities the NCDOI considers to be “normal office duties” which may be performed by unlicensed employees:

1. Data entry and typing

An unlicensed employee may type letters and reports for the bail bondsman. However, the bondsman must sign any documents which require the bondsman's signature and cannot allow an unlicensed employee to sign such documents on his behalf. For example, an unlicensed employee may type the monthly report required from professional bondsman pursuant to N.C.G.S. § 58-71-165. However, the professional bondsman will be held accountable for the accuracy and completeness of all information contained in the monthly report. Thus, the professional bondsman must review and sign the report indicating that he/she is attesting to the accuracy and completeness of the information contained therein. The professional bondsman should also include the name and signature of the unlicensed employee who prepared the report in the monthly report.

2. Filing documents and retrieving information from documents within the

¹ All references to bondsmen or runners are to duly qualified and licensed bondsman and runners.

office as required by the bondsman.

Filing documents which have been prepared or received in the ordinary course of the bondsman's business and retrieving information from those documents are administrative or clerical functions which the bondsman may permit his/her unlicensed employees to perform.

3. Handling telephone calls

An unlicensed employee may make and receive telephone calls and take messages for the bondsman as long as he/she does not perform any function in doing so which requires a bondsman or runner's license.

4. Quoting bond premiums, accepting premiums paid pursuant to a Memorandum of Agreement, and issuing receipts for such premium payments

An unlicensed employee *cannot* quote premium, discuss the terms and conditions of the bond, negotiate the amount of the bond premium, or negotiate arrangements for deferred payment.

The unlicensed employee may accept installment payments of premium made pursuant to a Memorandum of Agreement in the bondsman's office and issue receipts for such payments in accordance with 11 NCAC 15.0315. However, the unlicensed employee *cannot* accept the initial premium payment made pursuant to a Memorandum of Agreement. The bondsman will be held responsible for all monies received by his/her employees.

5. Interviewing and Screening the bond

The decision whether to write the bond is solely a function of the bondsman which must be made based upon his/her assessment of the defendant and circumstances of the case. The bondsman cannot allow an unlicensed employee to interview the defendant or other persons about the defendant for the purpose of assisting the bondsman in making this decision.

6. Completing or preparing forms and other documents which do not require a bondsman's or runner's license

The bondsman may permit an unlicensed employee to complete forms and other documents which do not require a bondsman's or runner's license as long as the unlicensed employee does not perform any function in doing so that requires a bondsman's or runner's license. For example, the unlicensed employee *cannot* issue collateral receipts,² complete Bail

² Accepting collateral, including the return of collateral, is a function or duty of the bondsman. See N.C.G.S. § 58-71-100 (stating that "when a *bail bondsman* accepts collateral he shall give a written receipt for the collateral . . .")(Emphasis added) and N.C.G.S. § 58-71-95(5)(imposing limits on the amount of collateral or collateral security which the *bail bondsman* can accept, requiring the *bail bondsman* to return the collateral or collateral security or other indemnity within 72 hours after final termination of liability on the bond, and requiring that collateral security be returned under the same conditions as requested and received by the *bail bondsman*).

Bond Applications, Indemnity Agreements, Memoranda of Agreements, or motions and petitions to be signed by the bondsman and filed with the court since the completion of these documents is a function or duty of the bondsman.

7. Maintaining court calendar

The bondsman may permit an unlicensed employee to notify defendants of upcoming court dates and to keep the bondsman informed of important dates such as forfeiture dates. However, the bondsman cannot allow an unlicensed employee to contact defendants who miss their court date since it is solely the bondsman or runner's responsibility to deal with defendants who miss their court date.

8. Filing motions and petitions

The bondsman may allow an unlicensed employee to deliver motions and petitions for filing to the post office or offices of the court. The unlicensed employee *cannot* discuss these motions and petitions with court staff and *cannot* relay messages regarding these motions and petitions to court staff on behalf of the bondsman.
