

### **Affidavit Required for Surety Bail Bondsmen Appointments.**

A few weeks ago, I had the opportunity to attend the Annual Meeting of the NCBAA in Charlotte and personally speak with many of our bail bond licensees and industry representatives. Bail bondsmen and bail bond runners are a vital part of North Carolina's business industry, and I hope you are proud to be a part of it.

Legislation effective Oct. 1, 2003, requires a surety bail bondsman to submit an affidavit to the North Carolina Department of Insurance's Agent Services Division before receiving an appointment with an insurance company. The affidavit is used to verify that the surety bondsman does not owe any premiums or unsatisfied judgment to any insurer. Surety bail bondsmen must also agree to discharge outstanding forfeitures and judgments on bonds previously written. This affidavit requirement, set forth in NCGS 58-71-141, is not a new regulation, but it has generated enough questions to the Department of Insurance through the years that our Agent Services Division has now revised the affidavit procedure, implemented new forms, and created Frequently Asked Questions (FAQs) to assist surety bail bondsmen and surety insurance companies.

Based on these updates, I thought it was an appropriate time to review the procedure that surety bail bondsmen and surety insurance company should follow to comply with NCGS 58-71-141 requirements.

#### **Surety Bail Bondsmen Form Submission**

To request a new surety insurance company appointment, the surety bail bondsman is required to fully complete the *Affidavit by Surety Bail Bondsmen Appointment* form. The surety bail bondsman then submits one copy of this form to the Agent Services Division and one copy of this form to *each* former insurer. (A former insurer is any surety insurance company for which the surety bail bondsman has a prior appointment and who is responsible for any outstanding bonds written by the surety bondsman. This applies to both currently active appointments and terminated appointments.)

#### **Surety Insurance Company Form Submission**

When a surety insurance company receives the *Affidavit by Surety Bail Bondsmen Appointment* form from a surety bail bondsman, the former insurer should check to see if the surety bail bondsman has any unsatisfied judgments or outstanding premiums that have not been remitted to the insurer. Within 30 days of receiving the *Affidavit by Surety Bondsman Appointment* form, the former insurer is required to complete *one* of the following new forms and submit it to the Agent Services Division:

- *Affidavit By Former Insurer Form* – This new form has been provided so that the former insurer can complete an affidavit stating that the bondsman does not owe premiums or unsatisfied judgments to the former insurer.
- *Notice Under Oath by Former Insurer Form* – This new form has been provided for

the former insurer to submit a notice under oath with supporting documents that the surety bondsman has failed to satisfy, in a timely manner, the forfeitures and judgments on bonds written by the surety bondsman and that the former insurer has satisfied the forfeiture or judgment from its own funds. Proper supporting documentation includes the forfeited attached bail bond(s), bail bond forfeiture documents and bail bond forfeiture judgment(s) as proof that surety bail bondsman has not timely satisfied all forfeiture(s) or judgment(s) on bonds written by the surety bondsman on behalf of the undersigned former insurer. In addition, financial record(s) [cancelled checks, for example] shall be submitted as proof that the former insurer satisfied the surety bail bondsman's forfeiture(s) or judgment(s) from its own funds.

### **Appointment Actions by Agent Services Division**

- If the Agent Services Division receives the completed *Affidavit by Former Insurer* form from all of the former insurers of the surety bail bondsmen, the new surety insurance company appointment for the surety bail bondsmen will be processed.
- If the Agent Services Division receives the *Notice Under Oath by Former Insurer* form from one or more former insurers, the new surety insurance company appointment *will not* be processed. The bondsman may appeal to the Commissioner of Insurance as provided in NCGS 58-71-141 within ten (10) days after receiving the notice and supporting documentation from the former insurer.

The Agent Services Division sent an e-mail notification to all surety bail bondsmen, surety insurance company licensing contacts and the NCBAAs informing them of the new affidavit procedure, forms and FAQs. Although the new forms should be used by surety bail bondsmen and surety insurance companies immediately, the Agent Services Division will accept the old forms until Sept. 1, 2011, to allow all surety bail bondsmen and surety insurance companies time to gain access and become familiar with the new procedure and forms.

The FAQs, along with the new forms, can be found on our website at [www.ncdoi.com](http://www.ncdoi.com). If you have any questions about affidavits, or any other license requirements, please contact the Agent Services Division at 919- 807-6800 or visit the Department of Insurance website at [www.ncdoi.com](http://www.ncdoi.com).