Chapter 308-19 WAC
BAIL BOND AGENCIES AND BAIL BOND AGENTS

WAC

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PART A
GENERAL

WAC 308-19-010 Promulgation—Authority. The director of the department of licensing, state of Washington, pursuant to the authority vested in the director by chapter 18.185 RCW, does hereby promulgate the following rules and regulations relating to the licensing of bail bond agencies and bail bond agents and bail bond recovery agents.

[Statutory Authority: Chapter 18.185 RCW. 05-08-027, § 308-19-010, filed 3/30/05, effective 4/30/05; 00-01-061, § 308-19-010, filed 12/13/99, effective 1/13/00. Statutory Authority: 1993 c 260 § 13. 93-21-053, § 308-19-010, filed 10/18/93, effective 11/18/93.]

WAC 308-19-020 Organization. The department of licensing administers the Washington bail bond license law, chapter 18.185 RCW. Submissions and requests for information regarding bail bond agency licenses and bail bond agent and bail bond recovery agent licenses may be sent in writing to the Bail Bond Program, Business and Professions Division, Department of Licensing, P.O. Box 9649, Olympia, Washington 98507-9649.

[Statutory Authority: Chapter 18.185 RCW. 05-08-027, § 308-19-020, filed 3/30/05, effective 4/30/05; 00-01-061, § 308-19-020, filed 12/13/99, effective 1/13/00. Statutory Authority: 1993 c 260 § 13. 93-21-053, § 308-19-020, filed 10/18/93, effective 11/18/93.]

WAC 308-19-030 Definitions. (1) Words and terms used in these rules shall have the same meaning as each has under chapter 18.185 RCW unless otherwise clearly provided in these rules, or the context in which they are used in these rules clearly indicates that they be given some other meaning. Also see RCW 18.185.010 for other definitions.

(2) "Principal partner" means the partner who is the qualified agent of a bail bond agency and who exercises operational control over the agency.

(3) "Bail bond" means the contract between the defendant, the surety and/or the court to insure the appearance of the accused before the court(s) at such time as the court may direct. These bonds may require annual renewal.

(4) "Property bond agent" means a surety that posts security in the form of personal or real estate for compensation to assure the appearance of a defendant.

(5) "Surety" as it relates to bail bonds, means the depositor/owner of cash if a cash bail bond, the property owner(s) if a property bond, the insurance company if a corporate surety bond, that guarantees performance of the bail bond contract for compensation.

(6) "Principal/defendant" means the accused, for whom a bail bond may be obtained.

(7) "Exonerate" means the discharging of the bail bond by the court.

(8) "Indemnitor" means the person placing security with an agency/agent, to secure the agency against loss for the release of a defendant(s) on a bail bond.

(9) "Clients" means defendants and indemnitors.

(10) "Affidavit" means a written statement made under oath as provided in RCW 10.19.160.

(11) "Indemnity agreement" means the contract signed by the indemnitor that states the obligations the indemnitor(s) is/are assuming.

(12) "Collateral receipt" means an accurate description of the security given to an indemnitor by the receiving agency's agent, in its fiduciary capacity, listing all collateral given as security for a bail bond and held by the agency/agent until the bail bond is exonerated by the court or a forfeiture occurs. The receipt shall name the owner of the collateral, the defendant, and the bond number, and specify the terms for redemption of the collateral including any fees charged for storage.

(13) "Surrender form" means the form used to return to custody a defendant for violation of bond conditions, and the indemnitor's withdrawal from a bail bond with an affidavit in accordance with RCW 10.19.160, or a letter of forfeiture from a court in accordance to the bail contract.

(14) "Letter of forfeiture" means a notice in varied forms, sent to a bail bond agency/branch office, advising the agency/branch office that a defendant who has secured a bail bond with that agency has failed to appear on a given date in a given court in accordance with RCW 10.19.090. The court has made a demand for the surrender of the defendant, or payment of the face amount of the bond by a given date.

(15) "Letter of demand" means any form of notice to the indemnitor/defendant that the collateral placed in trust has come under jeopardy because of a failure to appear or violation of bail.

(16) "Corporate surety bail bonds" means a bail bond contract that is guaranteed by a domestic, foreign or alien insurance company which has been qualified to transact surety insurance business in Washington state by the insurance commissioner.

(17) "Build-up fund" (also known as "BUF fund" or "escrow fund" or "trust fund") means that percentage of money obtained from collected premiums paid by the agent to the corporate surety company for the purpose of indemnifying the corporate surety from loss caused by the agent.

(18) "Endorsement" means that a bail bond agent or bail bond qualified agent licensee has met all licensing requirements for a bail bond recovery agent license and is authorized to perform the duties of both a bail bond agent and a bail bond recovery agent. Such licenses shall be issued by the department and will clearly state the dual purpose of the license.

(19) "Forced entry" means physical entry into a dwelling without the occupant's knowledge or consent for the purpose of apprehending a defendant subject to a bond.

(20) "Credentialed trainer" means an individual who has been certified by a state or national association to provide training to industry members based upon formal training and industry knowledge.

[Statutory Authority: Chapter 18.185 RCW. 08-20-036, § 308-19-030, filed 9/23/08, effective 11/1/08; 05-08-027, § 308-19-030, filed 3/30/05, effective 4/30/05; 00-01-061, § 308-19-030, filed 12/13/99, effective 1/13/00. Statutory Authority: 1993 c 260 § 13. 93-21-053, § 308-19-030, filed 10/18/93, effective 11/18/93.]

PART B
LICENSING APPLICATION AND FEES

WAC 308-19-100 Applying for a bail bond agent license. After the applicant meets the requirements of RCW 18.185.020 he/she shall:

(1) Complete an application for a license on a form provided by the department of licensing.

(2) Inform the department if he/she has an insurance surety license and with what company he/she is affiliated.

(3) Pay a fee or fees as listed in WAC 308-19-130.

(4) Pass a written exam administered by the department or submit proof of twelve hours of prelicense training as provided in Part D, WAC 308-19-300. The training must have occurred within the previous six months or less.

[Statutory Authority: Chapter 18.185 RCW. 08-20-036, § 308-19-100, filed 9/23/08, effective 11/1/08; 05-08-027, § 308-19-100, filed 3/30/05, effective 4/30/05; 00-01-061, § 308-19-100, filed 12/13/99, effective 1/13/00. Statutory Authority: 1993 c 260 § 13. 93-21-053, § 308-19-100, filed 10/18/93, effective 11/18/93.]

WAC 308-19-101 Applying for a bail bond recovery agent license or endorsement to a bail bond agent license. After the applicant meets the requirements of RCW 18.185.020 (1), (2) and (3), and is in good standing with the department he or she shall:

(1) Complete an application for a license or an endorsement on a form provided by the department;

(2) Submit a completed fingerprint card;

(3) Attest on the application form to having earned a high school diploma or GED or submit proof of three years experience in the bail industry;

(4) Submit a copy of a current and valid concealed pistol license.

(5) If applicant is retired or separated from a local or state police department, or a branch of the armed forces trained to carry out the duties of a peace officer within the last six years, submit proof to the department describing length of service, duties and date of retirement or separation or; submit a certificate or transcript showing the applicant has completed thirty-two hours of field operations classes as stated in WAC 308-19-305;

(6) Pay a fee or fees as listed in WAC 308-19-130;

(7) Pass a written exam administered by the department.

[Statutory Authority: Chapter 18.185 RCW. 08-20-036, § 308-19-101, filed 9/23/08, effective 11/1/08; 05-08-027, § 308-19-101, filed 3/30/05, effective 4/30/05.]

WAC 308-19-102 Submitting fingerprint cards for a criminal history background check. Every applicant for a bail bond recovery agent license or endorsement shall have a fingerprint criminal history background check conducted.

Applicants shall be fingerprinted by a law enforcement agency on a fingerprint card provided by the department and pay any fees required by the law enforcement agency providing the fingerprinting service.

[Statutory Authority: Chapter 18.185 RCW. 08-20-036, § 308-19-102, filed 9/23/08, effective 11/1/08; 05-08-027, § 308-19-102, filed 3/30/05, effective 4/30/05.]

WAC 308-19-105 Applying for a bail bond agency license. To qualify for a bail bond agency license the applicant shall:

Complete the requirements of the bail bond agent license and;

(1) Submit to the department proof of work experience as required under RCW 18.185.030 (1)(b).

(a) Work related experience shall include: Bail bonds, insurance, trust accounts, receiving collateral in a fiduciary capacity, and forms of underwriting.

(b) Applicants who do not have the required work experience shall train and pass an examination as stated under Part D, WAC 308-19-300.

(2) Complete an application for an agency license on a form provided by the department of licensing.

(3) Pay a fee or fees as required by WAC 308-19-130.

(4) Obtain a bond for the main office as required by RCW 18.185.070.

(5) The applicant shall disclose the surety(s) name, address, the attorney in fact, and whose name the build-up fund is in.

If the applicant changes their corporate surety, the applicant shall immediately advise the department.

(6) If the applicant provides security in the form of real property, the applicant shall advise the department of the names of the court(s) that have given approval for the placing of property bonds.

(7) Sole proprietorships shall act as the qualified agent of the agency without the payment of additional license fees.

(8) Partnerships or limited partnership applicants shall each apply, qualify and furnish their addresses to the director.

When a license is issued to a partnership, the principal partner shall act as the qualified agent of the agency without the payment of additional license fees.

(9) Applicants representing a corporation shall furnish a copy of the articles of incorporation, and a list of officers and departments and their addresses to the director.

When an agency license is issued to a corporation, the manager, officer, or chief operating officer shall act as the qualified agent of the agency without the payment of additional license fees.

(10) If the applicant represents a foreign corporation, he/she shall furnish a copy of its articles of incorporation, and a list of its officers and departments and their addresses to the department.

[Statutory Authority: Chapter 18.185 RCW. 05-08-027, § 308-19-105, filed 3/30/05, effective 4/30/05; 00-01-061, § 308-19-105, filed 12/13/99, effective 1/13/00.]

WAC 308-19-107 Responsibilities of the qualified agent. The qualified agent shall be responsible for all transactions, recordkeeping, and the employees of each office he or she is licensed as the qualified agent.

Under 18.185.010(5), a qualified agent is "an owner, sole proprietor, partner, manager, officer, or chief operating officer of a corporation who meets the requirements set forth in this chapter for obtaining a bail bond agency license." The qualified agent essentially serves as "manager" of the bail bond agency, and is responsible for all bail bond transactions conducted by the bail bond agents employed by the agency. See RCW 18.185.100 (qualified agent shall keep required records and ensure safekeeping of collateral or security); RCW 18.185.220 (every branch office must have a qualified agent serving as manager);

Each branch office must be managed by a qualified agent. A qualified agent may serve as a qualified agent of multiple offices. Although the qualified agent remains ultimately responsible for bail bond transactions, a qualified agent is permitted to delegate managerial functions to licensed bail bond agents. However, a qualified agent may not delegate managerial or supervisory functions to unlicensed staff because such functions necessarily involve participation in the sale or issuance of bail bonds.

Allowing unlicensed staff to participate in the sale or issuance of bail bonds could lead to charges of aiding or abetting unlicensed activity in violation of RCW 18.185.110(10) and 18.235.130(9).

Any agency going out of business in the state of Washington shall continue to be obligated on all outstanding bonds until the director receives notification from the jurisdiction in which the agency/branch offices are located that all bonds have been exonerated and the department of licensing has received no complaints from indemnitor about the return of collateral. The director may require an audit of the closing agency at any time upon notification of the closing of the agency.

[Statutory Authority: Chapter 18.185 RCW. 05-08-027, § 308-19-107, filed 3/30/05, effective 4/30/05; 00-01-061, § 308-19-107, filed 12/13/99, effective 1/13/00.]

WAC 308-19-110 Applying for a bail bond agency branch office license. A licensed bail bond agency may establish a branch office by meeting the following requirements.

(1) Each branch office shall have a licensed qualified agent.

(2) Complete an application form provided by the department of licensing.

(3) Pay the fee or fees as required under WAC 308-19-130.

[Statutory Authority: Chapter 18.185 RCW. 05-08-027, § 308-19-110, filed 3/30/05, effective 4/30/05; 00-01-061, § 308-19-110, filed 12/13/99, effective 1/13/00. Statutory Authority: 1993 c 260 § 13. 93-21-053, § 308-19-110, filed 10/18/93, effective 11/18/93.]

WAC 308-19-120 Bail bond recovery agent, bail bond agency, branch office and agent license applications—Conditions. Any person desiring to obtain a bail bond recovery agent, bail bond agency, bail bond branch office or bail bond agent license shall make application on a form prescribed by the director and pay a fee as prescribed by WAC 308-19-130.

[Statutory Authority: Chapter 18.185 RCW. 05-08-027, § 308-19-120, filed 3/30/05, effective 4/30/05. Statutory Authority: 1993 c 260 § 13. 93-21-053, § 308-19-120, filed 10/18/93, effective 11/18/93.]

WAC 308-19-130 Bail bond recovery agent, bail bond agency, branch office and bail bond agent fees. The following fees for a one-year period shall be charged by business and professions division of the department of licensing:

Title of Fee	Fee
Bail bond agency/branch office:	
Application	$1,200.00
License renewal	1,150.00
Late renewal with penalty	1,200.00
Bail bond agent:	
Original license	500.00
License renewal	575.00
Late renewal with penalty	600.00
Change of qualified agent	250.00
Original endorsement to the bail bond agent license	100.00
Endorsement renewal	100.00
Endorsement renewal with penalty	150.00
Bail bond recovery agent license:	
Original license	450.00 (includes background check fees)
License renewal	475.00
Late renewal with penalty	500.00
Examinations:	
Reexamination fee	25.00

[Statutory Authority: Chapter 18.185 RCW. 08-20-036, § 308-19-130, filed 9/23/08, effective 11/1/08; 06-21-082, § 308-19-130, filed 10/17/06, effective 11/17/06; 05-08-027, § 308-19-130, filed 3/30/05, effective 4/30/05. Statutory Authority: RCW 43.24.086 and chapter 18.185 RCW. 02-07-067, § 308-19-130, filed 3/18/02, effective 7/1/02. Statutory Authority: 1993 c 260 § 13. 93-21-053, § 308-19-130, filed 10/18/93, effective 11/18/93.]

WAC 308-19-140 Renewal and expiration of licenses and endorsements. (1) Licenses and endorsements issued to bail bond agents, bail bond agencies, branch offices, or bail bond recovery agents expire one year from the date of issue.

(2) Licenses and endorsements must be renewed each year on or before the date of expiration and a renewal fee as prescribed by the director in WAC 308-19-130 must be paid.

(3) If the application for a license or endorsement renewal is not received by the director on or before the renewal date, a penalty fee as prescribed by the director in WAC 308-19-130 shall be paid. Acceptance by the director of an application for renewal after the renewal date shall not be a waiver of the delinquency.

(4) A license or endorsement shall be canceled if an application for a renewal of that license or endorsement is not received by the director within one year from the date of expiration. A person may obtain a new license or endorsement by satisfying the procedures and qualifications for licensing, including the successful completion of any current examination and education requirements.

(5) No bail bond agent, or bail bond agency shall engage in the sale or issuance of bail bonds if their license has expired. No bail bond recovery agent shall perform the duties of a bail bond recovery agent if his/her license has expired.

(6) When the director receives verification that a bail bond agent or recovery agent license has expired or has been revoked or suspended, the director shall advise correction centers.

(7) By renewing the bail bond agent, bail bond recovery agent, or bail bond qualified agent license with the department, the licensee is making declaration that they have met the requirements for annual continued education.

[Statutory Authority: Chapter 18.185 RCW. 08-20-036, § 308-19-140, filed 9/23/08, effective 11/1/08; 05-08-027, § 308-19-140, filed 3/30/05, effective 4/30/05; 04-01-021, § 308-19-140, filed 12/8/03, effective 1/12/04; 00-01-061, § 308-19-140, filed 12/13/99, effective 1/13/00. Statutory Authority: 1993 c 260 § 13. 93-21-053, § 308-19-140, filed 10/18/93, effective 11/18/93.]

WAC 308-19-150 Cancellation of employment. (1) A person licensed as a bail bond agent may perform duties and activities as licensed only under the direction and supervision of a licensed qualified agent and as a representative of a bail bond agency.

(2) Either the agency or agent may cancel this relationship. The agency's qualified agent must send a written notice of the cancellation to the department of licensing immediately and include the agent's license held by the agency. Notice of cancellation shall be provided by signature of the agency's qualified agent on the surrendered license. The cancellation date shall be the postmark date or date the license is hand delivered to the department. If the license held by the agency cannot be surrendered to the department because the license has been lost, the qualified agent shall complete and submit an affidavit of lost license on a form approved by the department explaining why the license has been lost and for how long the license has not been on display.

[Statutory Authority: Chapter 18.185 RCW. 05-08-027, § 308-19-150, filed 3/30/05, effective 4/30/05; 00-01-061, § 308-19-150, filed 12/13/99, effective 1/13/00. Statutory Authority: 1993 c 260 § 13. 93-21-053, § 308-19-150, filed 10/18/93, effective 11/18/93.]

WAC 308-19-160 Inactive licenses. (1) Any license issued under chapter 18.185 RCW, and not otherwise revoked or suspended shall be deemed "inactive" at any time it is delivered to the director. Until reissued, the holder of an inactive license shall be deemed to be unlicensed.

(2) An inactive license may be placed in an active status upon completion of an application as provided by the director and upon compliance with chapter 18.185 RCW.

(3) An inactive license may not be renewed. The inactive license will be canceled if not activated by the expiration date. To obtain a new license the person must satisfy the procedures and qualifications for initial licensing, including the successful completion of any examination and education requirements.

(4) The provisions of chapter 18.185 RCW relating to the denial, suspension, and revocation of a license shall be applicable to an inactive license as well as an active license, except that when proceedings to suspend or revoke an inactive license have been initiated, the license shall remain inactive until the proceedings have been completed.

[Statutory Authority: Chapter 18.185 RCW. 05-08-027, § 308-19-160, filed 3/30/05, effective 4/30/05; 00-01-061, § 308-19-160, filed 12/13/99, effective 1/13/00. Statutory Authority: 1993 c 260 § 13. 93-21-053, § 308-19-160, filed 10/18/93, effective 11/18/93.]

PART C
OFFICE REQUIREMENTS AND LICENSEE'S RESPONSIBILITIES

WAC 308-19-200 Location of license documents. Licenses and endorsements of all bail bond agency and bail bond agents shall be kept in the office located at the address appearing on the license.

[Statutory Authority: Chapter 18.185 RCW. 05-08-027, § 308-19-200, filed 3/30/05, effective 4/30/05; 00-01-061, § 308-19-200, filed 12/13/99, effective 1/13/00. Statutory Authority: 1993 c 260 § 13. 93-21-053, § 308-19-200, filed 10/18/93, effective 11/18/93.]

WAC 308-19-210 Change of address. The qualified agent of a bail bond agency shall notify the department of any change of location and mailing address of the agency office within ten working days by filing a completed change of address form approved or provided by the department.

[Statutory Authority: Chapter 18.185 RCW. 05-08-027, § 308-19-210, filed 3/30/05, effective 4/30/05; 00-01-061, § 308-19-210, filed 12/13/99, effective 1/13/00. Statutory Authority: 1993 c 260 § 13. 93-21-053, § 308-19-210, filed 10/18/93, effective 11/18/93.]

WAC 308-19-220 Responsibilities as a licensee in addition to the other obligations and responsibilities outlined in chapter 18.185 RCW and chapter 308-19 WAC. It is the responsibility of each and every licensee to obtain a copy of and be knowledgeable of and keep current with the rules implementing chapter 18.185 RCW.

[Statutory Authority: Chapter 18.185 RCW. 05-08-027, § 308-19-220, filed 3/30/05, effective 4/30/05; 00-01-061, § 308-19-220, filed 12/13/99, effective 1/13/00. Statutory Authority: 1993 c 260 § 13. 93-21-053, § 308-19-220, filed 10/18/93, effective 11/18/93.]

WAC 308-19-230 Criminal complaint or action. Every licensee shall notify in writing, within twenty days after service or knowledge thereof, the office of the bail bond program, business and professions division, department of licensing of any criminal complaint, information, indictment, or conviction (including a plea of guilty or nolo contendere) in which the licensee is named as a defendant.

[Statutory Authority: Chapter 18.185 RCW. 05-08-027, § 308-19-230, filed 3/30/05, effective 4/30/05; 00-01-061, § 308-19-230, filed 12/13/99, effective 1/13/00. Statutory Authority: 1993 c 260 § 13. 93-21-053, § 308-19-230, filed 10/18/93, effective 11/18/93.]

WAC 308-19-240 Bail bond agency and branch office required records. The following requirements and prohibitions apply to all records and documents required to be maintained by chapter 18.185 RCW, or in these rules:

(1) They shall be maintained in accordance with generally accepted accounting practices.

(2) No person shall make any false or misleading statement, or make false or misleading entry, or willfully fail to make any entry required to be maintained or made, in any such record or document.

(3) No person shall willfully fail to produce any such record or document for inspection by the department.

(4) The minimum records the qualified agent or principal partner of a bail bond agency shall be required to keep are:

(a) Bank trust account records;

(b) Duplicate receipt book or receipt journal;

(c) Prenumbered checks;

(d) Check register or cash disbursement journal;

(e) Validated bank deposit slips;

(f) Reconciled bank monthly statement (client liability vs bank statement);

(g) All canceled checks;

(h) All voided checks;

(i) "Client information" which includes defendant's name, application, dates of transactions, amount received, amount disbursed, current balance, check number, item(s) covered, indemnitor's agreement, and indemnity agreements, premium receipts, collateral receipt(s), letter(s) of forfeiture or surrender form(s), letter(s) of demand and affidavit(s), if surrendered before a forfeiture has occurred, and any written information or communication that may have influence on the bail bond or collateral placed for the bail bond;

(j) A transaction folder or file containing a copy of all agreements, invoices, billings, and related correspondence for each transaction;

(k) Records or description of all collaterals, securities, or monetary instruments received or held in the bail bond business transactions;

(l) Records of training and/or continuing education for each bail bond agents employed in that agency;

(m) Records of exoneration of all bail bond transactions which include: (i) Court, citation or case number (ii) date of issuance of the bail (iii) the defendant's name, address and telephone number (iv) amount of the bond (v) name of the court (vi) date of exoneration of the bond.

(5) The above records shall be maintained for a minimum period of three years.

(6) All funds and monetary instruments received by the agency from customers or clients in business transactions shall be deposited into the trust account within three working days of receipt.

(7) All money spent on behalf of a client must be deposited in and disbursed from the agent's collateral trust account, including advances, loans or money from the agency's business account to the collateral trust account to pay expenses.

(8) The bail bond agent must secure an invoice or billing from any party who provides a service on behalf of the defendant and must include the cost for the service, a description of the service provided, and the service provider's name, address, telephone number, and UBI number (Uniform Business Identifier).

(9) Bail bond agents must secure an affidavit from any party who purchases or takes possession of collateral being liquidated. The affidavit must state the name, address and telephone number of the party(ies) acquiring the property along with a complete description of the property, serial number or other unique identifying number, and the dollar value of the collateral being liquidated with an explanation of how the dollar value was estimated.

(10) If the bail bond agent or agency provides other services to the indemnitor or client, the firm must provide full disclosure in writing of the agent's relationship with any persons providing such services, and prior disclosure of fees charged. The written disclosure must be maintained in the client's transaction file for a minimum period of three years. For purposes of this section, "other services" shall mean services unrelated to the issuance and posting of bail.

(11) The bail bond agent must provide each indemnitor or client a receipt for all personal property. The bail bond agent shall keep a duplicate of all receipts. The receipt will include:

(a) Date of receipt;

(b) Complete description of the property to include serial numbers or other unique identifying numbers;

(c) Signature of the bail bond agent; and

(d) A file or case number the receipt relates to.

(12) The bail bond agent shall maintain an individual ledger card to post all bank charges of any nature, including credit card charges. Accrued interest shall be posted to the individual ledger card. If bank charges exceed the interest earned, causing the trust account to be lower than client liability, the bail bond agent shall immediately deposit funds into the trust account to bring the trust account into balance. For purposes of this subsection, "immediately" shall mean within one banking day after the bail bond agent receives notice that the trust account is lower than client liability. All interest accruing on the trust bank account must be withdrawn at least once monthly.

(13) Contracts as described in RCW 18.185.270(2) between the bail bond agent and the bail bond recovery agent.

[Statutory Authority: Chapter 18.185 RCW. 05-08-027, § 308-19-240, filed 3/30/05, effective 4/30/05. Statutory Authority: RCW 43.24.086 and chapter 18.185 RCW. 02-07-067, § 308-19-240, filed 3/18/02, effective 7/1/02. Statutory Authority: Chapter 18.185 RCW. 00-01-061, § 308-19-240, filed 12/13/99, effective 1/13/00. Statutory Authority: 1993 c 260 § 13. 93-21-053, § 308-19-240, filed 10/18/93, effective 11/18/93.]

WAC 308-19-250 Bail bond agency audits and inspections. All records required to be maintained by a qualified agent of a bail bond agency by chapter 18.185 RCW, or these rules, together with any other business or other types of records of a licensee which may be related to the bail bond activity, together with any personal property which may be the subject of, or related to, a bail bond business transaction shall be subject to inspection and audit at any reasonable time, with or without notice upon demand by the department of licensing, for the purposes of determining compliance or noncompliance with the provisions of chapter 18.185 RCW, and these rules.

If records requested by the department are not immediately available because they are not physically present upon the premises at the time the demand is made, they shall be procured and produced to the department as soon as possible, but in any event within twenty-four hours, by the licensee.

A reasonable time for the conduct of such inspection and audit shall be:

(1) If the records or items to be inspected or audited are located anywhere upon a premise any portion of which is open for business or to the public (or members and guests), then at any time the premises are so open, or at which they are usually open; or

(2) If the records or items to be inspected or audited are not located upon a premise set out in subsection (1) of this section, then any time between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday.

[Statutory Authority: Chapter 18.185 RCW. 05-08-027, § 308-19-250, filed 3/30/05, effective 4/30/05; 00-01-061, § 308-19-250, filed 12/13/99, effective 1/13/00. Statutory Authority: 1993 c 260 § 13. 93-21-053, § 308-19-250, filed 10/18/93, effective 11/18/93.]

PART D
PRELICENSE TRAINING AND EXAMINATION REQUIREMENTS

WAC 308-19-300 Prelicense training and examination requirements for bail bond agents, bail bond agency, and qualified bail bond agent license applicants. (1) Beginning November 1, 2008, all bail bond agents and qualified agent applicants must provide proof of twelve hours of training or take a written state exam and achieve a passing score of at least eighty-five percent.

(a) The prelicense training must consist of eight hours of instruction provided by a credentialed trainer or other department approved source in the topic requirements listed below in subsection (3) of this section;

(b) The prelicense training must also consist of four hours of self study or formal training in the laws and rules relating to bail bonds.

(2) Proof of the eight hours of prelicense instruction provided by a credentialed trainer or other department approved source must be submitted with the bail bond agent or qualified agent application form provided by the department.

(3) The prelicense bail bond agent training topic requirements include:

(a) The basics of bail bonds;

(b) Responsibilities of a bail bond agent;

(c) Understanding power of attorney;

(d) Court jurisdiction;

(e) Articulated offense;

(f) Understanding the liability in surety bonds;

(g) Role in criminal justice;

(h) The rights of the clients;

(i) Ethics pertaining to how to treat your clients;

(j) Sexual harassment between agents and clients;

(k) Transporting clients;

(l) Phone service in jails;

(m) How to be in compliance with jail requirements;

(n) Collect call companies;

(o) Harassment and no contact orders of the client;

(p) Collateral;

(q) General recordkeeping;

(r) Contracts;

(s) Basic requirements of bail bond recovery agents;

(t) Understanding of the privacy laws;

(u) The basics of notaries;

(v) Basic understanding of the trust account; and

(w) Application of the Consumer Protection Act.

(4) Approved sources for bail bond agent prelicense training include:

(a) National or local industry associations;

(b) Certified bail agent online education courses;

(c) Credentialed licensed bail bond agents; and

(d) Other sources determined by the department.

(5) The examination requirement for qualified bail bond agent license applicants under RCW 18.185.030 (1)(a), shall also include, as a minimum:

(a) All of the subjects as listed in subsection (3) of this section; and

(b) At a minimum, the following subjects:

(i) Recordkeeping and filing;

(ii) Business licensing, taxation and related reporting and recordkeeping requirements.

(iii) Personnel management;

(iv) Laws relating to employment;

(v) The Americans with Disabilities Act;

(6) A score of eighty-five percent must be achieved in order to pass the examination. Applicants who fail to achieve an eighty-five percent score will be required to wait a minimum of seven days before reexamination.

[Statutory Authority: Chapter 18.185 RCW. 08-20-036, § 308-19-300, filed 9/23/08, effective 11/1/08; 05-08-027, § 308-19-300, filed 3/30/05, effective 4/30/05; 00-01-061, § 308-19-300, filed 12/13/99, effective 1/13/00. Statutory Authority: 1993 c 260 § 13. 93-21-053, § 308-19-300, filed 10/18/93, effective 11/18/93.]

WAC 308-19-302 Continuing education for bail bond agents. (1) Beginning July 1, 2009, all bail bond agents and qualified agents must provide proof of four hours of continued education before their license can be renewed. Proof must be submitted on a form provided by the department.

(2) Continued education must be in the following topic areas:

(a) How to work with the courts systems;

(b) Refresher course relating to relative laws;

(c) Ethics;

(d) Transporting defendants between other states; and

(e) Other topics applicable to the profession.

(3) Approved continued education providers include:

(a) National or local industry associations;

(b) Certified bail agent online education courses; and

(c) Other sources determined by the department.

(4) Continued education hours cannot be carried forward to the following year.

(a) A licensee may not repeat a course for credit during the same renewal period.

(b) Continued education courses must be taken within the same year of the renewal period.

(c) Licensees acting as a credentialed trainer of an approved continued education course will receive the same credit for the course they teach as the licensees attending receive.

(5) By renewing the bail bond agent or bail bond qualified agent license with the department, the licensee is making declaration that they have met the requirements for annual continued education.

[Statutory Authority: Chapter 18.185 RCW. 08-20-036, § 308-19-302, filed 9/23/08, effective 11/1/08.]

WAC 308-19-305 Minimum prelicense training requirements and exceptions for bail bond recovery agents. (1) Applicants for a license or an endorsement as a bail bond recovery agent must complete not less than thirty-two hours of prelicense training in field operations and self-study in the following subjects, except as otherwise provided in this section.

(a) Prelicense training in civil or criminal law can be achieved through public or private instruction or self-study and must include the following training topics:

(i) State statutes relating to bail regulations;

(ii) Constitutional law;

(iii) Procedures for surrendering defendants into custody;

(iv) Procedures for exoneration;

(v) Civil liability;

(vi) Civil rights of persons who are detained in custody;

(vii) Basic principles of identifying and locating defendants to include public records and confidentially, and surveillance;

(viii) Contracts;

(ix) Powers of a bail bond recovery agent;

(b) Prelicense training in procedures for field operations can be achieved through public or private instruction and must include the following training and certifications:

(i) Training in use of force and degrees of force, including verbal, Taser X/M26, baton either expandable, straight stick, or side handle, and oleo capsicum resin sprays or foams rated at 100,000 to 2,000,000 Scoville Heat Units;

(ii) Safety techniques;

(iii) Entering and searching buildings;

(iv) The custody and transportation of prisoners including persons who are violent, emotionally disturbed or under the influence of alcohol, or drugs;

(v) Defensive tactics;

(vi) Application of restraints/handcuffing procedures;

(vii) All applicants shall obtain gun safety training from an approved trainer, or applicants intending to carry a firearm as a bail bond recovery agent shall obtain and keep current firearm certification from the criminal justice training commission;

(viii) Certification in the following defensive tools: Taser X/M26, baton either expandable, straight stick, or side handle, and oleo capsicum resin sprays or foams rated at 100,000 to 2,000,000 Scoville Heat Units within twelve months of applying for a license or endorsement.

(2) In place of completing the prelicense training in procedures for field operations established in subsection (1) of this section required under RCW 18.185.260, an applicant may submit proof to the department that he/she has completed a course of training required by a municipal, state or federal law enforcement agency or a branch of the armed forces to carry out the duties of a peace officer within the past six years.

[Statutory Authority: Chapter 18.185 RCW. 08-20-036, § 308-19-305, filed 9/23/08, effective 11/1/08; 05-08-027, § 308-19-305, filed 3/30/05, effective 4/30/05.]

WAC 308-19-310 Prelicense examination requirements for bail bond recovery agents. Each applicant for a bail bond recovery agent license or endorsement shall pass an examination demonstrating their knowledge and proficiency in all of the training requirements set forth in WAC 308-19-305. Applicants who fail to achieve a passing score of eighty-five percent will be required to wait a minimum of seven days before reexamination and pay the required reexamination fee.

[Statutory Authority: Chapter 18.185 RCW. 08-20-036, § 308-19-310, filed 9/23/08, effective 11/1/08; 05-08-027, § 308-19-310, filed 3/30/05, effective 4/30/05.]

WAC 308-19-315 Study guide for the prelicense bail bond recovery agent examination. All of the information

listed below can be found on the internet. Public libraries offer free access to the use of the internet. Applicants may also access this study guide on the department's internet web site and will link directly to the study resource material.

(1) Chapter 18.185 RCW.

(2) Chapter 9.73 RCW Privacy.

(3) Chapter 42.17 RCW (sections 250 through 348) Public disclosure.

(4) Title 9A RCW (chapters 04, 08, 16, 36, 40, 42, 46, 50, 52, 56, 60, 68, 72, 76, 82) Washington state criminal code.

(5) Chapter 10.19 RCW Appearance bonds.

(6) Chapter 10.88 RCW Uniform Criminal Extradition Act.

(7) Chapter 9.41 RCW Firearms and dangerous weapons.

(8) Federal Privacy Act (5 U.S.C. 552A).

(9) Freedom of Information Act (5 U.S.C. 552).

(10) Fair Credit Reporting Act (15 U.S.C. 1681).

(11) Federal Wiretapping Act (18 U.S.C.).

(12) Gramm-Leach-Bliley Act.

(13) Title 28 of the U.S. Code.

(14) Chapter 35.20 RCW Municipal courts.

(15) Title 2 RCW Courts of records.

(16) Title 3 RCW District courts/courts of limited jurisdictions.

(17) Title 4 RCW Civil procedures.

(18) Taylor vs. Taintor.

(19) Washington criminal justice training commission use of force continuum.

[Statutory Authority: Chapter 18.185 RCW. 05-08-027, § 308-19-315, filed 3/30/05, effective 4/30/05.]

WAC 308-19-320 Minimum education requirements for bail bond recovery agents. All applicants for a bail bond recovery agent license or endorsement shall have a minimum of a high school education or GED or a minimum of three years of full-time, verifiable experience in the bail bond industry.

[Statutory Authority: Chapter 18.185 RCW. 05-08-027, § 308-19-320, filed 3/30/05, effective 4/30/05.]

WAC 308-19-330 Continued education and recertification for bail recovery agents. (1) Beginning July 1, 2009, bail recovery agents must attest to having participated in at least eight hours of annual training in applicable fields of study relating to the operations of bail recovery to be eligible for renewing their license. Bail recovery agents must keep a record of the annual training and make the record available to the department for three years.

(2) If a bail recovery agent carries a firearm, or other weapons, it is their obligation to be recertified annually. The hours for firearm, or other weapons, recertification cannot be counted towards annual training hours.

(3) By renewing the bail bond recovery agent license with the department, the licensee is making declaration that they have met the requirements for annual continued education.

[Statutory Authority: Chapter 18.185 RCW. 08-20-036, § 308-19-330, filed 9/23/08, effective 11/1/08.]

PART F
BRIEF ADJUDICATIVE PROCEEDINGS

WAC 308-19-400 Brief adjudicative proceeding. The director adopts RCW 34.05.482 through 34.05.494 for the administration of brief adjudicative proceedings conducted by request, and/or at the discretion of the director pursuant to RCW 34.05.482, for the categories of matters set forth below. Brief adjudicative proceedings will be limited to a determination of one or more of the following issues:

(1) Whether an applicant for a license meets the minimum criteria for a license to practice as a bail bond recovery agent, bail bond agency, qualified agent, branch office or bail bond agent in this state and the department proposes to deny the application;

(2) Whether a person is in compliance with the terms and conditions of a final order or agreement previously issued by the department;

(3) Whether an education course or curriculum meets the criteria for approval when approval by the department is required or authorized by statute or rule;

(4) Whether a license holder requesting renewal has submitted all required information and whether a license holder meets minimum criteria for renewal; and

(5) Whether a license holder has been certified by a lending agency and reported to the department for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship.

[Statutory Authority: Chapter 18.185 RCW. 05-08-027, § 308-19-400, filed 3/30/05, effective 4/30/05; 00-01-061, § 308-19-400, filed 12/13/99, effective 1/13/00. Statutory Authority: RCW 34.05.410 (1)(a) and 34.05.482 (1)(c). 97-10-047, § 308-19-400, filed 5/1/97, effective 6/1/97.]

WAC 308-19-410 Records used in a brief adjudicative proceeding. (1) The preliminary record with respect to an application for an original or renewal license or for approval of an education course or curriculum shall consist of:

(a) The application for the license, renewal, or approval and all associated documents;

(b) All documents relied upon by the department in proposing to deny the license, renewal, or approval; and

(c) All correspondence between the applicant for license, renewal, or approval and the department regarding the application.

(2) The preliminary record with respect to determination of compliance with a previously issued final order or agreement shall consist of:

(a) The previously issued final order or agreement;

(b) All reports or other documents submitted by, or at the direction of, the license holder, in full or partial fulfillment of the terms of the final order or agreement;

(c) All correspondence between the license holder and the department regarding compliance with the final order or agreement; and

(d) All documents relied upon by the department showing that the license holder has failed to comply with the previously issued final order or agreement.

(3) The preliminary record with respect to the determination of nonpayment or default by the license holder on a fed-

erally or state-guaranteed educational loan or service-conditional scholarship shall consist of:

(a) Certification and report by the lending agency that the identified person is in default or nonpayment on a federally or state-guaranteed educational loan or service-conditional scholarship; or

(b) A written release, if any, issued by the lending agency stating that the identified person is making payment on the loan in accordance with a repayment agreement approved by the lending agency.

[Statutory Authority: Chapter 18.185 RCW. 05-08-027, § 308-19-410, filed 3/30/05, effective 4/30/05; 00-01-061, § 308-19-410, filed 12/13/99, effective 1/13/00. Statutory Authority: RCW 34.05.410 (1)(a) and 34.05.482 (1)(c). 97-10-047, § 308-19-410, filed 5/1/97, effective 6/1/97.]

WAC 308-19-420 Conducting a brief adjudicative proceeding. (1) Brief adjudicative proceedings shall be conducted by a presiding officer for brief adjudicative proceedings designated by the director. The presiding officer for brief adjudicative proceedings shall not have personally participated in the decision, which resulted in the request for a brief adjudicative proceeding.

(2) The parties or their representatives may present written documentation. The presiding officer for brief adjudicative proceedings shall designate the date by which written documents must be submitted by the parties.

(3) The presiding officer for brief adjudicative proceedings may, in his or her discretion, entertain oral argument from the parties or their representatives.

(4) No witnesses may appear to testify.

(5) In addition to the record, the presiding officer for brief adjudicative proceedings may employ department expertise as a basis for the decision.

(6) The presiding officer for brief adjudicative proceedings shall not issue an oral order. Within ten days of the final date for submission of materials or oral argument, if any, the presiding officer for brief adjudicative proceedings shall enter an initial order.

[Statutory Authority: Chapter 18.185 RCW. 05-08-027, § 308-19-420, filed 3/30/05, effective 4/30/05; 00-01-061, § 308-19-420, filed 12/13/99, effective 1/13/00. Statutory Authority: RCW 34.05.410 (1)(a) and 34.05.482 (1)(c). 97-10-047, § 308-19-420, filed 5/1/97, effective 6/1/97.]

WAC 308-19-430 False or misleading advertising. (1) Every advertisement by a licensee that solicits or advertises business shall contain the name of the business exactly as stated on the bail bond agency license, and the physical address of the business as stated on the bail bond agency license, and the bail bond agency license number. A licensed bail bond agency may advertise under a registered trade name of the licensee provided that the registered trade name is stated exactly as documented with the state of Washington master license service. Licensees under this chapter must notify the department in writing, of any registered trade names intended for use in future advertising.

(2) Telephone book directory listings that are for the purpose of providing the business name, address, and telephone number only, are not required to include the license number.

(3) The department has authority to discipline bail bond agents for advertising that is false, fraudulent or misleading, RCW 18.185.110(5) and 18.235.130(3).

[Statutory Authority: Chapter 18.185 RCW. 05-08-027, § 308-19-430, filed 3/30/05, effective 4/30/05; 00-01-061, § 308-19-430, filed 12/13/99, effective 1/13/00.]

WAC 308-19-440 Standards of professional conduct. (1) A bail bond agent shall maintain a detailed record of any collateral taken as security on any bond to the principal, indemnitor, or depositor of such collateral.

(2) A bail bond agent shall preserve or retain separately any collateral or to retain any collateral taken as security on any bond.

(3) A bail bond agent shall not have an outstanding judgment on a bail forfeiture, which judgment is or has been subject to execution on demand.

(4) A bail bond agent shall not use a relationship with any person employed by a jail facility to obtain referrals, or pay a fee or rebate or give or promise anything of value to any person having the power of arrest or having control of federal, state, county, or municipal prisoners, trustees or prisoners incarcerated in any jail, prison or any other place used for the incarceration of persons.

(5) A bail bond agent shall not require as a condition of his/her executing a bail bond that the principal or defendant agree to engage the services of a specific attorney.

(6) A bail bond agent shall not prepare or issue forged bonds or a forged power of attorney.

(7) A bail bond agent shall not arrest or make a threat of arrest to a defendant when the defendant or the indemnitor fails to fulfill a promise to repay credit extended by the bail bond agent.

(8) A bail bond agent shall not pay a fee or rebate or give or promise anything of value to the principal or anyone on his or her behalf.

(9) A bail bond agent shall not pay a fee or rebate or give anything of value to an attorney in bail bond matters, except for legal services actually rendered on behalf of the bail bond agent.

(10) A bail bond agent shall not pay a fee or rebate or pay for a referral except from another bonding company, or promise anything of value to a person in order to secure a settlement, compromise, remission or reduction of the amount of any bail bond.

[Statutory Authority: Chapter 18.185 RCW. 00-01-061, § 308-19-440, filed 12/13/99, effective 1/13/00.]

WAC 308-19-445 Contract requirements between the bail bond agent and the bail bond recovery agent. The purpose of the contract as required in RCW 18.185.270 is to provide information to the public and law enforcement officers to clarify authority and to identify the parties involved during the act of locating and apprehending a fugitive. The contract is to administrate the transfer of information regarding the identity of the fugitive.

(1) There shall be an individual contract on a form provided by the department between the bail bond agent and the bail bond recovery agent for each fugitive.

(2) A bail bond agent shall provide a bail bond recovery agent a copy of each individual contract on a form provided by the department.

(3) The contract form provided by the department shall not prevent a bail bond agent or a bail bond recovery agent

from having additional contracts or agreements for conducting the course of their business transaction.

(4) The bail bond agent shall provide to the bail bond recovery agent a photograph of the fugitive if one is available.

(5) The original signed contract shall be kept by the bail bond agency for at least three years and be made available upon request by the department.

(6) Facsimile signatures shall be as effective as if originals.

[Statutory Authority: Chapter 18.185 RCW. 05-08-027, § 308-19-445, filed 3/30/05, effective 4/30/05.]

WAC 308-19-450 Planned forced entry and forced entry reporting—Procedure requirements. When the apprehension of a fugitive defendant meets the definition of RCW 18.185.010(12) Planned forced entry, the bail bond recovery agent shall follow the procedure requirements in RCW 18.185.300.

(1) In addition to the minimum notification requirements of RCW 18.185.300, the notification to law enforcement must provide any prior known risk factors of which the bail bond recovery agent is aware including knowledge regarding any warrants.

(2)(a) Beginning November 1, 2008, bail recovery agents shall report to the department within ten business days after a forced entry on a form provided by the department the following information:

(i) Date and time of the forced entry;

(ii) Location;

(iii) Defendant name;

(iv) Bail bond agent named on the recovery contract;

(v) Bail recovery agent names who participated in the forced entry;

(vi) Was any person present during the forced entry injured?

(vii) Was property damaged?

(viii) Was the defendant present?

(ix) Was the defendant surrendered to jail?

(b) The Forced Entry Reporting Form can be submitted to the department by e-mail, fax or regular postage mail to the address information on the form.

[Statutory Authority: Chapter 18.185 RCW. 08-20-036, § 308-19-450, filed 9/23/08, effective 11/1/08; 05-08-027, § 308-19-450, filed 3/30/05, effective 4/30/05.]

WAC 308-19-455 Bail bond recovery agent badge. The approved badge for bail bond recovery agents is a round gold star burst with a round blue ribbon with gold letters stating bail bond recovery agent. The center of the badge displays a picture of the liberty bell and lady justice. If the license number is attached beneath the badge, the department issued license number shall be used.

[Statutory Authority: Chapter 18.185 RCW. 05-08-027, § 308-19-455, filed 3/30/05, effective 4/30/05.]

WAC 308-19-460 Firearms certification procedure through criminal justice training commission. Individuals licensed as a bail bond recovery agent who carry a firearm while performing the duties of a bail bond recovery agent shall be required to successfully complete a prescribed course of instruction from a certified instructor of the Washington State Criminal Justice Training Commission located at 19010 1st Avenue South, Burien, Washington 98140 - Telephone: 206-835-7300.

[Statutory Authority: Chapter 18.185 RCW. 05-08-027, § 308-19-460, filed 3/30/05, effective 4/30/05.]