



Ladies and Gentlemen of the Legislative Committee,

I stand before you today, deeply vested not only as the President of the Montana Bail Agents Association but also as a steward of a crucial yet often misunderstood segment of our justice system, the secured bail system. Our profession provides a solution that significantly contributes to public safety and court compliance, saving the state both money and resources, while ensuring that individuals have the support they need to responsibly navigate the judicial process.

WHAT IS A SURETY BAIL AGENT?

In simple terms, a surety bail agent plays a critical role in the criminal justice system by ensuring that defendants return to court for their trial and other legal proceedings, thus upholding the rights of victims and the safety of the community. Here's how they contribute to protecting victims, the community, and the judicial system:

1. **Protection for Victims and the Community:** When a surety bail agent posts bail for a defendant, they make a financial guarantee to the court that the defendant will appear at all required court dates. This system helps to ensure that defendants, particularly those accused of serious crimes, are monitored and incentivized to comply with the judicial process. By holding defendants accountable for appearing in court, surety bail agents indirectly protect victims and the community by reducing the risk of further harm or criminal activity.
2. **Ensuring Defendants Face Justice:** Surety bail agents ensure that the judicial system operates efficiently by facilitating the appearance of defendants at their court dates. This is crucial for the timely administration of justice, ensuring that victims' rights are respected and that cases are resolved according to the law. By guaranteeing court appearances, surety bail agents help maintain the integrity of the judicial process, ensuring that justice is served.
3. **Financial Responsibility and Accountability:** The surety bail agent and the defendant enter into an agreement where the defendant must comply with specific conditions, including appearing in court. If the defendant fails to appear, the bail agent is financially responsible and may employ a fugitive recovery agent to locate and return the defendant to court. This system of financial accountability ensures that there is a significant incentive for both the bail agent and the defendant to follow through with their legal obligations, thus upholding the judicial process.
4. **Reducing the Burden on Public Resources:** By providing a private solution for pretrial release, surety bail agents reduce the burden on public resources. This system allows defendants the opportunity to continue their daily lives, work, and contribute to society while awaiting trial, rather than being held in custody at the expense of taxpayers. This efficiency helps ensure that jail spaces are reserved for those who pose a significant risk to public safety, thus indirectly protecting the community and supporting the judicial system's focus on more serious cases.

In essence, surety bail agents act as a critical intermediary in the criminal justice system, ensuring that defendants are accountable for their court appearances, thus protecting the rights and safety of victims and the community while supporting the efficient operation of the judicial system.

WHAT IS A FUGITIVE RECOVERY AGENT?

A fugitive recovery agent is a professional responsible for locating, apprehending, and returning individuals who have failed to appear for their court dates and have had bail bonds forfeited. These agents operate under legal authority, granted by contractual agreements, to ensure that defendants meet their obligations within the judicial system. Their work is critical in upholding the principles of accountability and ensuring the effectiveness of the bail bond system, thereby supporting the broader goals of justice and public safety.

Fugitive recovery agents and surety bail agents serve distinct roles within the criminal justice system. Recognizing them as separate professions is important due to the specialized nature of their work. Fugitive recovery agents focus on locating and apprehending individuals who fail to appear in court, requiring skills in investigation, surveillance, and apprehension. Surety bail agents, on the other hand, provide financial assurances to the court that defendants will appear for their proceedings. This clear distinction ensures that each professional can focus on their area of expertise, contributing to a more efficient and effective judicial process.

WHAT ARE THE EFFECTS OF THE CHANGE OF LEGISLATION

The enactment of House Bill 62 (HB-62), alongside the veto of HB-808 and the failure of Senate Bill 470, has ushered in a series of unintended consequences that threaten the fabric of our secured bail system. These changes, especially the shift towards electronic bail filing and the rise of bail brokerages, primarily driven by out-of-state corporations, are undermining the personal accountability that is the cornerstone of our profession. This evolution risks not only the integrity of the bail process but also the safety and efficiency of our judicial system as a whole.

FUGITIVE RECOVERY

Has Montana's HB-62 made it a Haven for Fugitives?

Unpacking the Ambiguities and Implications

Within Montana's multifaceted legislative landscape, HB-62, colloquially referred to as the "Bounty Hunter" bill, has ignited considerable debate. The concerns stem from its interpretation by Commissioner Troy Downing and Deputy Commissioner Frank Cote during the 2023 CSI Insurance Summit. Their viewpoint stipulates that out-of-state licensed fugitive recovery agents must be licensed in Montana to pursue bail jumpers or fugitives entering Montana.

Ambiguities and Practical Concerns:

Identifying Recovery Operations: How can the Commissioner's office detect an ongoing recovery operation? Unless publicized, they're essentially reactionary, undermining proactive monitoring.

Jurisdictional Challenges: The Commissioner's capacity to oversee out-of-state recovery agents is questionable. They lack authority over external licensing decisions, meaning potential disciplinary actions might not have legal grounding.

Out-of-State Agents Dilemma: The bill's vagueness impacts out-of-state agents the most. Without clear liability within Montana, what stops them from sidestepping licensing requirements? Especially when

Montana law permits private citizens to arrest under specific conditions, this could be a loophole for out-of-state agents.

Potential Consequences for Montana's Safety:

Fugitive Safe Haven: This interpretation may inadvertently make Montana attractive to fugitives. By hindering out-of-state agents with licensing stipulations, fugitives might find it easier to evade capture.

Strain on Montana's Licensed Bail Agents: It's improbable that Montana's licensed agents will step in for out-of-state fugitives. Their licenses grant them the authority to write surety bail. Why risk this privilege for an unaffiliated out-of-state entity?

NEW TRAINING REQUIREMENTS

At the heart of these challenges lies one of the most critical aspects of HB-62, the requirement for 40 hours of professional training for bail bond agents. However, the mechanisms for delivering this training have been grossly overlooked. The auditors' office, tasked with overseeing this requirement, has notably failed to provide the necessary guidance or resources to facilitate this training, leaving professionals in our industry in a state of limbo. While readily offering reciprocity licenses, the Montana agent can only get a temporary license contingent on the completion of the mandatory training. Training that at this time does not exist and by admission the Commissioner office will not facilitate or provide directions to get the required training. Effectively making it impossible for agencies to hire new agents. While allowing the influx of out-of-state agents to pour into the state.

REPORTING REQUIREMENTS

The rigorous new reporting requirements introduced by HB-62, which have proven both unmanageable and ineffective. The Montana State Auditor's Office, responsible for overseeing these requirements, is currently ill-equipped to accurately track arrests, revocations, or surrenders, mainly due to the reliance on an unsecured online form. This gap in the system poses a significant risk to the reliability and integrity of the data collected, further exacerbating the challenges we face. The regulation of forms and processes, such as the Revocation form, has become a contentious issue under HB-62. The confusion regarding the regulatory authority of the Commissioner of Securities and Insurance (CSI) to mandate these forms has led to inconsistencies and inefficiencies in the bail bond process, undermining the law's intent to improve industry standards.

Our industry's role extends beyond financial guarantees; we are integral to ensuring public safety and the efficient operation of our justice system. The distinction between bail bond agents and fugitive recovery agents, although related, underscores the multifaceted nature of our work. Bail bond agents play a pivotal role in the judicial process, offering a service that alleviates the financial burden on the state and contributes positively to the community.

However, our attempts to navigate these turbulent waters have been met with frustration and silence from the State Auditor's Office. Despite numerous communications seeking clarity and support, our pleas for immediate action to curb the erosion of our system have been largely ignored. This lack of engagement not only hinders our ability to adapt and comply with new regulations but also signals a troubling disconnect between our industry and the regulatory bodies meant to oversee it.

SUPREME COURT RULING / PROBABLE CAUSE

Right now the requirements for surrendering a defendant are restrictive and a detriment to public safety by not allowing the surety to properly manage the defendant that has been placed into their custody. It also turn the entire state into a fugitive safe haven, because no outside fugitive recovery agent can follow and apprehend their defendant in the state of Montana. They would have to rely on a Montana Bail Surety agent to accept the risk and make an arrest for them. A practice that I assure you no legitimate surety agent is going to do. The failure of the Commissioners office and the legislature during the last session to fully understand the separation of bail agent and fugitive recovery agent has led to the elimination of an entire profession in the state.

In light of these pressing concerns, we urgently call for a comprehensive review and revision of HB-62. It is imperative that we address the gaps and challenges identified, particularly in terms of reporting requirements and the regulation of electronic bail filing. Implementing safeguards to ensure the integrity of data submitted through the CSI website, establishing clear guidelines for out-of-state bail entities, and fostering a constructive dialogue between our industry, legislators, and regulatory bodies are critical steps towards finding balanced solutions that uphold the principles of justice and public safety.

As we delve deeper into the consequences of recent legislative actions, particularly the enactment of House Bill 62, the veto of HB-808, and the failure of Senate Bill 470, it's crucial to highlight their broader impact on our judicial system and community welfare. The lack of regulatory safeguards following these actions has led to significant disruptions within Yellowstone County's judicial system, a trend that is reportedly spreading across Montana.

The potential future we face, where local bondsmen are sidelined in favor of impersonal, technology-driven solutions, is unacceptable. Not only does this shift threaten the livelihoods of countless Montanans involved in the bail bond industry, but it also jeopardizes the community-centric model that has served our state so well.

The primary issues highlighted include:

- **Strain on Judicial Resources:** The influx of electronically filed bail bonds without adequate regulation may be overwhelming court systems, leading to administrative challenges and inefficiencies.
- **Increased Jail Populations and Fail to Appear Rates:** The unregulated use of electronic bail filing could be contributing to higher jail populations, either through inefficiencies in processing or through increased instances of defendants failing to appear for court dates, possibly due to the impersonal nature of the electronic process or inadequate follow-up by out-of-state entities.

Furthermore, the discussion at the recent PBUS convention highlights the industry's shift towards Bail Brokerages and electronic surety bail. This model indicates a significant departure from traditional bail practices, with out-of-state Surety Companies favoring the electronic system as it allows them to bypass local bail agents, undermining the traditional role of local oversight and personal accountability.

The absence of regulatory protections, either from the legislature or the state auditor, has opened the door for aggressive tactics by out-of-state agencies and bond brokerages, exploiting Montana's teletype system to push for the broader acceptance of electronic bonding, without adequately considering the potential for abuse or the impact on local judicial systems and communities.

CONCLUSION

In conclusion, the developments in Montana's bail system represent a significant shift towards electronic bail processing, driven by technological advancements and interests of large, out-of-state surety companies. While there could be benefits to modernizing bail processes, this approach raises serious concerns regarding oversight, accountability, and the potential for systemic abuse. The situation underscores the need for comprehensive regulatory frameworks that balance innovation with the protection of local judicial systems, defendants' rights, and community welfare. As someone deeply involved in the bail industry, your insights and leadership could be crucial in navigating these challenges and advocating for reforms that ensure a fair, efficient, and accountable bail system.

RECOMMENDATIONS

The association has requested that the commissioner consider the immediate introduction of new rules under the Montana Administrative rules. And in the next legislative session we will ask that they be added to Montana Code Annotated, specifically targeting the sale and processing of insurance policies, including bail bonds. These proposed rules aim to streamline the bail transaction process and uphold the integrity of insurance sales.

1. **Sale and Dispensing Restrictions:** We propose prohibiting the sale or dispensing of insurance policies, including bail bonds, through mechanical devices or vending machines. This measure ensures the maintenance of professional standards and personal oversight in insurance transactions.
2. **Permitted Use of Office Machines:** While restricting vending machine usage, we recognize the importance of standard office machinery for operational purposes in insurance companies and do not seek to impede their use.
3. **Mandatory Insurance Producer Involvement:** All insurance sales, including bail bonds, should be conducted exclusively by licensed insurance producers. This ensures that each transaction is handled with the necessary expertise and adherence to regulatory standards.
4. **Detention Center Kiosk and Vendor Machine Clause:** We propose to prohibit the depositing of bail premium funds or collateral via detention center kiosks or jail vendor credit card machines, to avoid any perception of the facility acting as a surety.
5. **Sheriff Delivery to Court Regulation:** We suggest mandating direct delivery of any surety bond or cash for bail purposes from sheriffs or detention centers to the court, without the imposition of additional fees by third-party vendors, including credit card processors. This ensures transparency and fairness in the bail process.
6. **The implementation of a premium requirement,** historically it has been 10% but across the nation we seen increases to 15% with the ability to finance a portion of the premium with strict requirements of collecting an initial payment and regulating the amount and length of financing the remainder.

7. Temporary Licensing for Surety Bail Bond Agents, Including Reciprocity Licenses

(1) Eligibility for Temporary License: Individuals, including those holding reciprocity licenses, seeking licensure to sell surety bail bonds in Montana, shall be granted a one-year temporary license upon successful completion of the application process, including passing the required examination.

(2) Supervision Requirement: All temporary licensees, whether local or from reciprocity agreements, must operate under the supervision of an established Montana surety licensee who has maintained a valid license for at least five consecutive years and is a resident of Montana.

(3) Transition to Full License: The temporary license, for both local and reciprocity license holders, shall transition to a full license after one year, provided the licensee fulfills the new training requirements set by the state.

8. Addressing the legal authority of the Commissioner of Securities and Insurance (CSI) to mandate or administer certain forms, specifically the Revocation form used by surety bail bond producers. The association firmly believes that it is within the legal purview of CSI to regulate these forms, especially in light of the new law's implementation and the necessity for effective oversight.

1. Regulatory Authority of CSI: CSI, as the state regulator, has the fundamental role of protecting the public interest and ensuring the integrity of the insurance and surety sectors. Part of this role involves establishing and enforcing regulations that maintain the highest standards of practice within these industries.

2. Need for Standardized Reporting: With the introduction of new laws affecting bail bonds, it becomes imperative to have a uniform system for reporting revocations. Without a standardized Revocation form, there is a significant risk of inconsistent reporting, which could hinder the effectiveness of the new legislation and potentially compromise public safety.

3. Precedent for Form Regulation: The instance where the Yellowstone County Attorney and the District Court sought CSI approval for their form demonstrates the precedent for such regulatory action. This indicates that CSI does hold sway over the forms used in these procedures, especially when it concerns the broader public interest and adherence to legal standards.

4. Efficiency and Transparency: A standardized Revocation form, regulated by CSI, would not only streamline the revocation process but also ensure transparency and uniformity across the state. This would greatly assist in maintaining an effective oversight mechanism, enabling CSI to monitor compliance with the new law.

5. Compliance with Legal Mandates: The regulation of the Revocation form by CSI aligns with the legislative intent to maintain a high standard of practice within the bail bond industry. By ensuring that revocations are reported in a consistent and standardized manner, CSI would be fulfilling its role as the protector of public interest within the confines of legal statutes.

We believe these rules will significantly contribute to the integrity and professionalism of the bail bond system in Montana. We look forward to collaborating with the commissioner's office on these important matters.

The challenges brought forth by HB-62 and the evolving landscape of our industry demand immediate and thoughtful action. We stand at a crossroads where the decisions we make today will have lasting impacts on the integrity of our justice system and the safety of our communities. I urge this committee to consider our calls to action with the seriousness they deserve, ensuring that the bail process remains a reliable, personal, and locally focused service that benefits all Montanans.

Thank you for your attention, understanding, and unwavering commitment to the principles of justice and public safety.

John J Looney
President
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(c) As used in this rule, the "producer . . . who effects an arrest or surrender" refers to any producer who physically arrests or surrenders a principal/defendant or any producer who requests, orders, or otherwise causes the arrest or surrender of a principal/defendant. A "surrender" includes any action, process, or procedure by which a producer requests bail be exonerated pursuant to [46-9-510\(2\)](#), MCA.

History: [33-26-108](#), MCA; IMP, [33-26-108](#), [46-9-510](#), MCA; NEW, 2021 MAR p. 410, Eff. 4/17/21; AMD, 2023 MAR p. 872, Eff. 1/1/24.

6.6.6001 DEFINITIONS

For the purposes of this subchapter, the following terms have the following meanings:

(1) "Bail bond agency" means a surety bail insurance producer agency which may be a corporation, limited liability company, partnership, limited partnership, limited liability partnership, sole proprietorship, or other legal entity which is owned by, employs, or contracts with one or more individual surety bail insurance producers.

(2) "Commercial bail bond surety insurer" means a surety insurer who sells, solicits, or negotiates commercial bail bonds.

(3) "Indemnitor" is a person who, by agreement with a surety bail insurance producer, accepts liability for loss of the surety bail insurance producer in the event that a principal fails to perform according to the standards agreed upon between the principal and the surety bail insurance producer.

(4) "Premium" means the cost of a surety insurance bond, issued pursuant to [33-26-101](#), et seq., MCA, and contained in the contract with the principal.

(5) "Principal" is a defendant or a witness who has been admitted to bail and who is obligated to appear in court as required upon penalty of forfeiting bail under a commercial bail bond.

(6) "Surety bail insurance producer" or "producer" means an insurance producer who sells, solicits, or negotiates commercial bail bonds, pursuant to [33-26-101](#), et seq. and [46-9-401](#), MCA.

History: [33-1-313](#), [33-26-108](#), MCA; IMP, [33-26-108](#), MCA; NEW, 2021 MAR p. 410, Eff. 4/17/21.

6.6.6003 COLLATERAL, TRUST ACCOUNTS, RECORDS OF ARREST AND SURRENDER, LIST OF FORFEITURES, COSTS, NOTICE OF INCARCERATION

(1) Any collateral security required by a surety bail insurance producer must be commercially reasonable in relation to the amount of the bond. The value of any collateral security received by a surety bail insurance producer must not exceed two-and-one-half times (250%) the amount of the bond unless no other collateral is available. Any collateral must be acquired and secured by a signed security agreement and in accordance with Montana law.

(2) A surety bail insurance producer who accepts collateral shall give the principal the security agreement and a written receipt for the collateral. The receipt must give a detailed description of the collateral received.

(3) Collateral security must be held and maintained in trust. When collateral security is received in the form of cash, check, or other negotiable instrument, and unless cash collateral is deposited with and held in trust by the commercial bail bond surety insurer, the surety bail insurance producer shall deposit the cash or instrument, within five banking days after receipt, in a trust account in a bank insured by the Federal Deposit Insurance Corporation. The trust account may not contain operating or personal funds.

(4) When personal property is received as collateral, the surety bail insurance producer must comply with the Montana Uniform Commercial Code-Secured Transactions, [30-9A-101](#), et seq, MCA.

(5) Each surety bail insurance producer shall keep records identifying all collateral received, the source of funds placed into all trust accounts, security agreements, and the terms of all commercial bail bond transactions. The records are open to inspection without notice by the commissioner.

(6) If the court exonerates a bail bond, the surety bail insurance producer shall return all collateral or other security to the person entitled to it within five business days after receipt of written notification of exoneration. All collateral or security must be returned in the condition it was received, and at the location it was received, at the principal's address, or the parties may mutually agree to another location.

(7) Each surety bail insurance producer shall maintain and retain for three years, and update on a continual basis:

(a) a list of forfeitures, which must include the names of the principal and indemnitor, the case name and number, the date of the forfeiture; and

(b) a list of arrests and surrenders, which must include the names of the principal and indemnitor, the case name and number, and the date of the failure of the principal to appear.

(8) A surety bail insurance producer may bill the principal for actual and reasonable costs, listed in this rule, which the surety bail insurance producer incurs in securing the appearance or arrest of a principal. A surety bail insurance producer shall keep receipts for actual costs for a period of three years. The costs which a surety bail insurance producer may recover from the principal, in addition to the premium or bail amount, are limited to the actual and reasonable direct expenses, including but not limited to gasoline, and food and lodging, incurred in searching for, arresting, and transporting (to a detention facility) the principal.

(9) If collateral is liquidated it must be done according to commercially reasonable standards and lawful procedures, and the balance, if any, must be returned to the

6.6.6004 PROHIBITED PRACTICES

(1) A surety bail insurance producer may not:

- (a) pay a fee or rebate, or give or promise anything of value, directly or indirectly to any public official, employee, or agent, who has power to arrest or hold in custody, in order to secure a settlement, compromise, remission, or reduction of the amount of any bail bond, or the forfeiture thereof;
- (b) pay a fee or rebate, or give, or promise anything of value to the principal or anyone on his or her behalf;
- (c) participate in the capacity of an attorney at a trial or hearing of a person on whose bond the surety bail insurance producer is a surety;
- (d) advise or assist the principal for the purpose of forfeiting bond;
- (e) fail to report, preserve without use, retain separately, or return after payment in full collateral taken as security on any bail bond to the party entitled to the collateral;
- (f) fail to return collateral within five business days of receiving written notice of exoneration;
- (g) gain access to a prospective principal in a prisoner confinement facility for the purpose of solicitation by misrepresenting to facility officials that the prospective principal or someone on the prospective principal's behalf had so requested; or
- (h) sell, solicit, or negotiate surety bail insurance while employed as an investigator with the Office of the Public Defender.

History: [33-1-313](#), [33-26-108](#), MCA; [IMP](#), [33-17-1001](#), [33-17-1103](#), [33-18-210](#), [33-18-212](#), [33-26-108](#), [46-9-401](#), [46-9-402](#), [46-9-502](#), [46-9-503](#), [46-9-505](#), [46-9-510](#), [46-9-511](#), [46-9-512](#), MCA; [NEW](#), 2021 MAR p. 410, Eff. 4/17/21.

6.6.6006 BAIL BOND DOCUMENTS

(1) The following requirements apply to documentation a surety bail insurance producer uses in connection with transacting business:

(a) an indemnity agreement must:

- (i) be in writing;
- (ii) be signed by the principal;
- (iii) be signed by the indemnitor, if any;
- (iv) be signed by the surety bail insurance producer;
- (v) set forth the amount of bail, the name of the principal, the amount and type of collateral held by the surety bail insurance producer, and the conditions under which the collateral is to be returned, in compliance with these rules;
- (vi) state that the principal and the indemnitor have received copies of signed and dated disclosure forms referred to in (1)(e);
- (vii) if the principal or indemnitor is illiterate or does not read English, state that the surety bail insurance producer or a third party has read or translated the agreement for the principal or indemnitor; and,
- (viii) conform to all requirements of, and use the forms designated by the surety company.

(b) if used in the bail bond transaction, a promissory note must be:

- (i) in writing;
- (ii) signed by the surety bail insurance producer;
- (iii) signed by the principal or indemnitor; and
- (iv) in an amount not in excess of the premium due from the principal.

(c) a collateral receipt must:

- (i) be dated;
- (ii) be in writing;
- (iii) be signed by the surety bail insurance producer;
- (iv) be signed by the principal or indemnitor;
- (v) be prenumbered;
- (vi) contain a full description of the collateral, including the condition of the collateral at the time it is taken into custody;
- (vii) set forth the amount of bail, the name of the principal, the court case number, the court where the bond is executed, the amount of premium, the amount and type of collateral held by the surety bail insurance producer, and the conditions under which the collateral is to be returned; and

(viii) include a provision stating that the acquisition, liquidation, and disposition of all collateral must comply with these rules, and provisions of Montana law governing the liquidation of collateral.

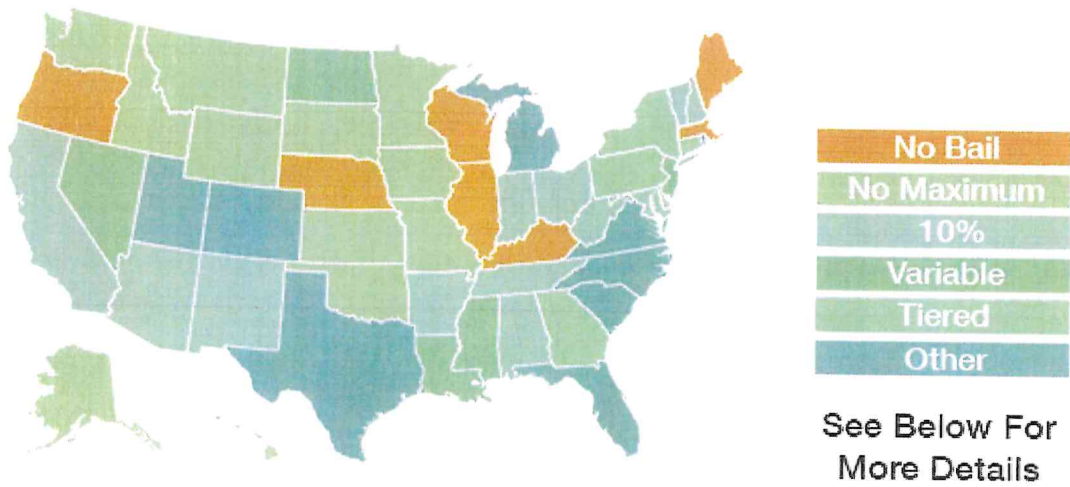
(d) a prenumbered, signed receipt for payments made pursuant to a promissory note must be given to the person tendering payment for each payment received. The payment receipt must contain the date, the principal's name, a description of the consideration and amount of money received, the purpose for which it was received, the amount of the bail bond, and the name of the person tendering payment; and

(e) a surety bail insurance producer shall provide an advance written disclosure of any and all charges, in addition to the premium, that the principal or indemnitor may

How Much Does Bail Cost?

We have compiled a list of the allowable bail bond premiums by state to serve as a resource to illustrate how much bail costs in each state. The amount that bail agents are allowed to charge varies by state and regulations. Based on the provided table, 37 states have specific regulations regarding bail premiums or have conditions that the bail premium must adhere to. The remaining states either do not have private bail, have very rare commercial bail, or regulate bail through other means, such as court systems.

The Cost of Bail By State



Bail Costs Table

| State | Allowable Bail Premium | Additional Information | Source |
|---------|------------------------|------------------------|---|
| Alabama | 10% mandated | | Alabama Department of Insurance |

| State | Allowable Bail Premium | Additional Information | Source |
|----------------------|--|--|---|
| District of Columbia | There is no private bail in DC. | | |
| Florida | At least 6.5% | | FL Statutes Title XXXVII Chapter 624, Section 4094 |
| Georgia | Cannot exceed 15% or \$50, whichever is greater. | | Georgia Code - Criminal Procedure - Title 17, Section 17-6-30 |
| Hawaii | No maximum set | | Hawaii Department of Commerce and Consumer Affairs |
| Idaho | No maximum set | Premium rates are not to be excessive, inadequate, or unfairly discriminatory. | Idaho Code § 41-1405 |
| Illinois | There is no private bail in Illinois. | | |
| Indiana | 10% | | Indiana Department of Insurance |
| Iowa | No maximum set | Cannot exceed the rate on file with the IID. | Iowa Insurance Department |
| Kansas | No maximum set | | Kansas Insurance Department |
| Kentucky | There is no private bail in Kentucky. | | |

| State | Allowable Bail Premium | Additional Information | Source |
|----------------|--|---|--|
| Nebraska | | Commercial bail is very rare in Nebraska. | |
| Nevada | Cannot exceed \$50 or 15%, whichever is greater. | | NRS § 697.300 |
| New Hampshire | 10% | | New Hampshire Insurance Department |
| New Jersey | 10% | \$125 minimum | New Jersey Department of Banking and Insurance |
| New Mexico | 10% | | New Mexico Public Regulation Commission |
| New York | 10% up to \$3000, 8% for \$3000-\$10000, 6% for the amount over \$10000. | In cases where the amount of the bond or deposit is less than two hundred dollars, a minimum premium of ten dollars may be charged. | New York Insurance Department |
| North Carolina | 15% | | NC Stat. § 58-71-95(5) |
| North Dakota | Cannot exceed 10% or \$75, whichever is greater. | | Summary of Insurance Legislation, North Dakota Department of Insurance |

| State | Allowable Bail Premium | Additional Information | Source |
|---------------|--|---|---|
| Utah | 20% | 10% minimum | UT Administrative Rule R590-196-4 |
| Vermont | 10% | | Vermont Department of Financial Regulation |
| Virginia | 15% | | Code of Virginia § 9.1-185.8 |
| Washington | No maximum set | \$50 minimum; other applicable fees may be added. Bonds over \$1,000 are usually 10% of the bond. | Washington Department of Licensing |
| West Virginia | 10% | | West Virginia Offices of Insurance Commissioner |
| Wisconsin | There is no private bail in Wisconsin. | | |
| Wyoming | No maximum set. | Subject to Wyoming Statute 26-15-110. | Wyoming Insurance Department |

What is a Bail Bond Premium?

A bail bond premium is the fractional amount paid to a bail bondsman instead of covering the entire bail amount as set by the court system.

Often times, people cannot cover the full amount of bail and utilize a bail bond to free their loved ones. For the agreed-upon bond fee, the bail

Dear Commissioner Downing,

I am writing to propose the introduction of new rules under the Montana Code Annotated, specifically targeting the sale and processing of insurance policies, including bail bonds. These proposed rules aim to streamline the bail transaction process and uphold the integrity of insurance sales.

1. **Sale and Dispensing Restrictions:** We propose prohibiting the sale or dispensing of insurance policies, including bail bonds, through mechanical devices or vending machines. This measure ensures the maintenance of professional standards and personal oversight in insurance transactions.
2. **Permitted Use of Office Machines:** While restricting vending machine usage, we recognize the importance of standard office machinery for operational purposes in insurance companies and do not seek to impede their use.
3. **Mandatory Insurance Producer Involvement:** All insurance sales, including bail bonds, should be conducted exclusively by licensed insurance producers. This ensures that each transaction is handled with the necessary expertise and adherence to regulatory standards.
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We believe these rules will significantly contribute to the integrity and professionalism of the bail bond system in Montana. We look forward to collaborating with your office on these important matters.

Best regards,

John J Looney
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Dear Commissioner Downing,

I am reaching out to you in my capacity as the President of the Montana Bail Agents Association, to discuss a matter of utmost importance to our industry.

As you are aware, recent legislative changes have introduced new complexities in the bail bond sector, particularly concerning the licensing and training of surety bail bond agents. To address these challenges and ensure the smooth functioning of our industry, we propose the implementation of new rules regarding temporary licensing for surety bail bond agents, including those with reciprocity licenses.

Our proposal, which we believe aligns with both the spirit and letter of the recent legislative changes, includes:

Temporary Licensing for Surety Bail Bond Agents, Including Reciprocity Licenses

(1) Eligibility for Temporary License: Individuals, including those holding reciprocity licenses, seeking licensure to sell surety bail bonds in Montana, shall be granted a one-year temporary license upon successful completion of the application process, including passing the required examination.

(2) Supervision Requirement: All temporary licensees, whether local or from reciprocity agreements, must operate under the supervision of an established Montana surety licensee who has maintained a valid license for at least five consecutive years and is a resident of Montana.

(3) Transition to Full License: The temporary license, for both local and reciprocity license holders, shall transition to a full license after one year, provided the licensee fulfills the new training requirements set by the state.

We believe these changes are critical for maintaining high standards within our industry and ensuring public safety. They also provide a clear and structured pathway for new entrants, thus fostering growth and sustainability in the bail bond sector in Montana.

We kindly request your office to consider drafting and implementing these rules at the earliest convenience. We are committed to collaborating closely with your office and other stakeholders to ensure these changes are implemented effectively and efficiently.

Thank you for considering our proposal. We look forward to your favorable response and are available for any further discussions or clarifications required.

Warm regards,

John J Looney
President
Montana Bail Agents Association
<https://www.mtbaa.org/>
(406) 465-7273

Dear Mr. Downing,

I am writing to you in my capacity as President of the Montana Bail Agents Association, following our discussions at the recent bail summit and the training provided by your office.

In the course of our operations, we have observed certain challenges with the current forms used by agents across the state and the specific form utilized by Yellowstone County Detention Center. I am including copies of these forms with this letter for your reference.

Key Observations and Recommendations:

1. **Integration and Standardization of Forms:** While the current online form is functional, there is a significant opportunity to integrate and standardize the revocation processes across the state. A unified approach would not only streamline the work of bail agents but also ensure consistency and clarity in communication with detention centers and the courts.
2. **Development of a Secure Online Reporting System:** The security of the online reporting process is paramount. We recommend the development of a secure, user-authenticated system that can be accessed exclusively by licensed bail bond agents. This system would prevent unauthorized use and potential fraudulent activities.
3. **Multi-purpose Online Form:** We propose the creation of an online form that can be filled out, downloaded, and printed by bail agents. This form should serve several functions:
 - **Revocation Notification:** To inform detention centers of a bond revocation.
 - **Body Receipt:** To provide bail agents with proof of submission and custody of the defendant.
 - **Certificate of Notification:** To facilitate required notifications to the jurisdictional court by the detention center.

By implementing an integrated online system, we can achieve a more efficient and secure workflow. This approach aligns with the legislative intent of the relevant Montana Code Annotated sections and addresses the practical needs of bail bond agents, detention centers, and the courts.

Conclusion:

The recommendations presented here are the culmination of practical experiences and discussions among our members. We believe these enhancements will significantly improve the efficacy and integrity of the bail bond process in Montana.

Thank you for your attention to these matters. We are committed to working collaboratively with your office to implement these improvements and are available for any further discussions or clarifications required.

Sincerely,

John J Looney

President

Montana Bail Agents Association

<https://www.mtbaa.org/> [mtbaa.org]

(406) 465-7273

I would like to address the concerns raised by Chief Legal Counsel Olson regarding the legal authority of the Commissioner of Securities and Insurance (CSI) to mandate or administer certain forms, specifically the Revocation form used by surety bail bond producers. The association firmly believes that it is within the legal purview of CSI to regulate these forms, especially in light of the new law's implementation and the necessity for effective oversight.

1. **Regulatory Authority of CSI:** CSI, as the state regulator, has the fundamental role of protecting the public interest and ensuring the integrity of the insurance and surety sectors. Part of this role involves establishing and enforcing regulations that maintain the highest standards of practice within these industries.
2. **Need for Standardized Reporting:** With the introduction of new laws affecting bail bonds, it becomes imperative to have a uniform system for reporting revocations. Without a standardized Revocation form, there is a significant risk of inconsistent reporting, which could hinder the effectiveness of the new legislation and potentially compromise public safety.
3. **Precedent for Form Regulation:** The instance where the Yellowstone County Attorney and the District Court sought CSI approval for their form demonstrates the precedent for such regulatory action. This indicates that CSI does hold sway over the forms used in these procedures, especially when it concerns the broader public interest and adherence to legal standards.
4. **Efficiency and Transparency:** A standardized Revocation form, regulated by CSI, would not only streamline the revocation process but also ensure transparency and uniformity across the state. This would greatly assist in maintaining an effective oversight mechanism, enabling CSI to monitor compliance with the new law.
5. **Compliance with Legal Mandates:** The regulation of the Revocation form by CSI aligns with the legislative intent to maintain a high standard of practice within the bail bond industry. By ensuring that revocations are reported in a consistent and standardized manner, CSI would be fulfilling its role as the protector of public interest within the confines of legal statutes.

In light of these considerations, I propose a collaborative approach to address the regulatory challenges posed by the new law. The Montana Bail Agents Association is committed to working alongside CSI and other stakeholders to develop a practical and legally sound solution that benefits all parties involved, most importantly, the public we serve.

I look forward to engaging in further discussions and finding a mutually agreeable path forward. Thank you once again for your dedication to this matter and for your willingness to collaborate in enhancing the bail bond process in Montana.

Sincerely,

John J Looney
President
Montana Bail Agents Association
<https://www.mtbaa.org/> [mtbaa.org]
(406) 465-7273

Reevaluating HB-62: Commissioner Downing's Oversight and Its Impact on Montana's Bail Bond Industry



In the heart of Montana, a legislative decision spearheaded by Commissioner Troy Downing has stirred the pot in the local bail bond community, leading to widespread discussions and criticisms. The enactment of HB-62, under Downing's guidance, promised to reshape the bail bond landscape with new licensing requirements and operational standards. However, the reality that unfolded tells a story of overlooked industry concerns, neglected expert advice, and unintended consequences that have placed local businesses in a precarious position. This blog post aims to dissect the complexities of Downing's approach to HB-62, highlighting the missteps and their damaging effects on Montana's bail bond industry and community at large.

The Misguided Legislative Process of HB-62

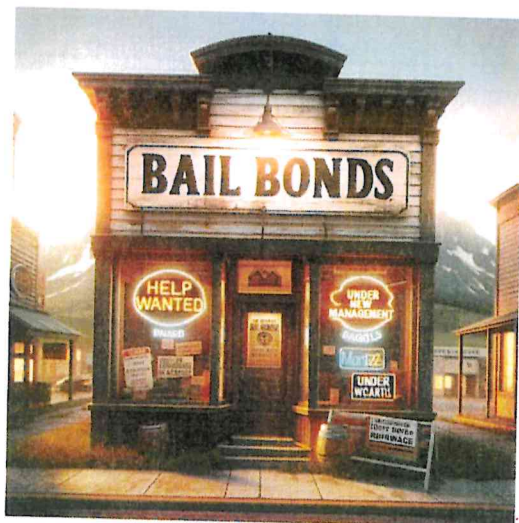
At the outset, Commissioner Downing's ambition with HB-62 seemed to be a step towards modernizing Montana's bail bond system. The bill introduced a new surety bail bond insurance license alongside stringent application and training requirements. On paper, these changes appeared to be a progressive move; however, the devil lies in the details—or rather, in what details were overlooked.

The legislation notably failed to address critical industry concerns such as the regulation of bail premiums and the licensing requirements for fugitive recovery agents. This oversight has not only ignored the plight of those unable to afford bail but also paved the way for predatory practices that have exacerbated the debt burden on individuals. It's a classic case of good intentions marred by poor execution, where the lack of industry consultation has led to regulations that favor larger corporations at the expense of local, smaller businesses.

The Impact on Local Bail Bond Agencies

The heart of Montana's bail bond industry beats through its local agencies, which offer personalized services and maintain strong community ties. These small businesses are essential in providing a more nuanced and compassionate approach to bail, understanding the local legal nuances better than any out-of-state corporation could. However, Downing's failure to regulate bail premiums has left these businesses vulnerable to competition that relies on aggressive, often exploitative, financial practices.

This lack of regulation not only threatens the survival of these agencies but also undermines consumer protection and industry integrity. By allowing unchecked bail premium rates, Downing inadvertently



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encouraged a race to the bottom, where the focus shifts from quality service and community well-being to sheer profit margins.

The Pushback from the Industry: HB-808

In response to the shortcomings of HB-62, the Montana Bail Agents Association proposed HB-808, a piece of legislation aimed at self-regulating the industry to address the very issues Downing's bill ignored. Initially, Downing expressed neutrality, promising not to oppose the bill. However, his subsequent actions told a different story. By penning a letter to the governor accusing the industry of "price fixing," Downing effectively torpedoed HB-808, leaving the industry in limbo and betraying his earlier commitment.

This move not only quashed any hope for meaningful reform from within the industry but also highlighted Downing's reluctance to engage with industry professionals and consider their insights. The accusation of "price fixing" oversimplifies the complex dynamics of bail premium regulation, ignoring the potential benefits of standardized rates in protecting consumers and supporting local businesses.

The Need for Balanced Regulation

The fallout from HB-62 and the veto of HB-808 underscore a critical need for balanced regulation that protects consumers, supports local businesses, and maintains industry standards. Downing's approach, marked by a lack of consultation and consideration for the bail bond industry's unique challenges, has inadvertently favored large, out-of-state corporations over the small, locally owned agencies that are the backbone of Montana's bail bond system.

Moreover, incidents such as the mishandled recovery in Butte and unethical practices highlighted by the Lewis and Clark County Sheriff's Office underline the urgent need for comprehensive legislation that addresses all aspects of the bail bond industry, including fugitive recovery licensing and the regulation of bail premiums.

Conclusion: A Call for Informed Legislation



Commissioner Troy Downing's handling of HB-62 reveals a concerning disconnect between legislative actions and the real-world implications for Montana's bail bond industry. The lack of industry input and consideration for the adverse effects on local businesses and consumers has resulted in a regulatory framework that falls short of its intended goals.

As Montana moves forward, there is a pressing need for legislation that is informed by industry experts, prioritizes consumer protection, and supports the local businesses that play a crucial role in the state's legal system. Only through a collaborative and informed approach can Montana ensure a bail bond system that is fair, efficient, and reflective of its community values.

Reevaluating HB-62: Commissioner Downing's Oversight and Its Impact on Montana's Bail Bond Industry

In the wake of HB-62, let's hope for a future where legislative decisions are made with a deeper understanding of their impact, fostering a bail bond industry that serves the best interests of all Montanans.

FAQs

1. **What is HB-62?** HB-62 is legislation introduced in Montana, overseeing significant changes in bail bond laws, including new licensing requirements for surety bail bond insurance.
2. **Why has HB-62 been controversial?** The controversy stems from the bill's failure to address critical issues like bail premium regulation and the input of bail bond professionals, leading to adverse effects on local businesses and consumers.
3. **What was the proposed HB-808?** HB-808 was legislation proposed by the Montana Bail Agents Association aiming to self-regulate the industry and address the shortcomings of HB-62.
4. **Why did Commissioner Downing oppose HB-808?** Downing opposed HB-808 by accusing the industry of "price fixing," a move that effectively killed the bill and prevented industry-led reforms.



5. **What are the implications of Downing's actions for Montana's bail bond industry?** Downing's handling of HB-62 and opposition to HB-808 have favored larger, out-of-state corporations over local businesses, undermined consumer protection, and ignored the need for balanced industry regulation.

Setting the Record Straight: Unveiling the Truth Behind HB-62 and Its Impact on Montana's Bail and Recovery Professions

In the swirling vortex of legislative changes and public discourse, House Bill 62 (HB-62) in Montana has sparked considerable debate, particularly within the professions of bail bondsmen and fugitive recovery agents. Recently, an article published by the Commissioner of the CSI has fueled misconceptions regarding the bill's scope and its regulatory reach over the fugitive recovery agent profession. The Montana Bail Agents Association feels compelled to address these inaccuracies head-on, aiming to dispel myths and present a clearer picture of the legislation's true implications.

The Heart of the Misconception

First off, it's vital to tackle the elephant in the room: the assertion that HB-62 brings fugitive recovery agents under the regulatory umbrella of the Commissioner of Insurance and Securities. This claim is not only misleading but outright incorrect. The legislation, as it stands, makes no provisions for such regulatory authority, indicating a significant misunderstanding or misrepresentation of the bill's intent and reach.



The Misuse of Isolated Incidents

Leveraging isolated incidents of misconduct to tarnish the entire profession paints an unfair picture and serves an agenda that appears more interested in justifying unwarranted regulation than in addressing actual issues within the professions. Bounty hunting, with its distinct legal framework, operates separately from bail bondsmen. Efforts to lump these distinct roles under a single regulatory body without acknowledging their unique functions and legal standings are misguided at best.

Clarifying HB-62's Stipulations

HB-62 indeed introduces measures like prohibiting felons from the profession, establishing a minimum age requirement, and mandating approved training. However, these apply specifically to Surety Bail Producers, not to Fugitive Recovery Agents. This distinction is crucial in understanding the bill's actual scope and ensuring that discussions around it are grounded in fact.

Challenging the Narrative of Insecurity

The portrayal of bondsmen's powers as overly broad and prone to abuse is a gross oversimplification that does not hold up under scrutiny. The legal framework within which bail bondsmen operate is designed with checks and balances. Sensationalizing their role does a disservice to the profession and to the broader conversation about justice and public safety.

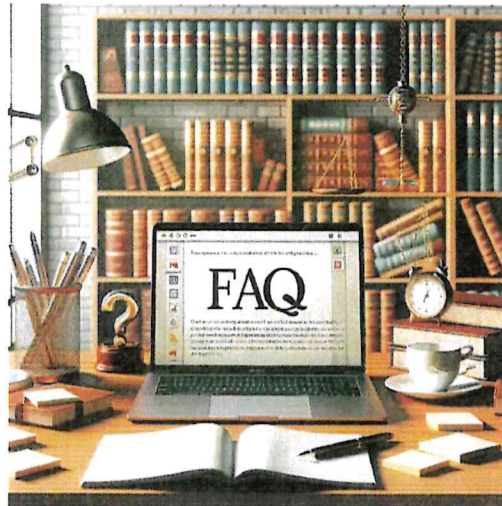
Advocating for Constructive Dialogue

The Montana Bail Agents Association stands for transparency, honesty, and fairness in discussing and legislating issues affecting our professions. It's time to move beyond sensationalism and misrepresentations, focusing instead on constructive dialogue that seeks real solutions and acknowledges the vital role these professionals play in the criminal justice system.

Setting the Record Straight: Unveiling the Truth Behind HB-62 and Its Impact on Montana's Bail and Recovery Professions

Conclusion: A Path Forward

The discourse surrounding HB-62 and its impact on Montana's bail bondsmen and fugitive recovery agents demands clarity and truth. As we navigate these legislative waters, it's imperative that we engage in open, honest dialogue that respects the distinct roles and contributions of each profession. Only through such engagement can we hope to develop legislation that truly serves justice, respects the bounds of regulatory authority, and recognizes the invaluable service provided by these professionals to the state of Montana.



FAQs

1. **What is House Bill 62 (HB-62)?** HB-62 is a piece of legislation in Montana that has been the subject of much discussion regarding its impact on the bail bond and fugitive recovery agent professions.
2. **Does HB-62 regulate fugitive recovery agents?** Contrary to misconceptions, HB-62 does not bring fugitive recovery agents under the regulatory authority of the Commissioner of Insurance and Securities in Montana.
3. **What are the main concerns with the Commissioner's portrayal of HB-62?** The primary concerns include the misrepresentation of the bill's regulatory reach and the use of isolated incidents to justify broader regulatory measures.
4. **Why is it important to correct misconceptions about HB-62?** Dispelling myths and clarifying the bill's actual implications are crucial for informed public discourse and for protecting the interests of professionals in the bail bond and fugitive recovery agent industries.

Pre-Trial Funding Summary for 25B

| <i>Personal Services</i> | Rate | FY24 | | FY25 | |
|--------------------------------|-------|-------------|----------------|-------------|----------------|
| | | FTE | Total Cost | FTE | Total Cost |
| Pre-Trial Program Supervisor | 42.00 | 0.50 | 63,659 | 0.50 | 64,003 |
| Public Safety Assessment Coord | 19.24 | 1.00 | 59,659 | 1.00 | 59,699 |
| Public Safety Assessment Coord | 19.24 | 0.50 | 36,153 | 0.50 | 36,173 |
| Public Safety Assessment Coord | 19.24 | 0.50 | 36,153 | 0.50 | 36,173 |
| Total personal Services | | 2.50 | 195,624 | 2.50 | 196,048 |

| | | |
|-------------------------------------|-------------|-------------------|
| Total Biennium - Pers. Svcs. | 5.00 | \$ 391,672 |
|-------------------------------------|-------------|-------------------|

| <i>Operating Costs</i> | | 2024 | 2025 | Notes |
|------------------------------|--|---------------|---------------|---|
| Automon (Assessment Tool) | | 25,000 | 25,000 | Estimate based on FY21 actual exp. |
| CJIN Access | | 5,252 | 5,252 | Amnt billed based on prior year usage. Estimate is based on two year average amount invoiced. |
| Office Supplies | | 584 | 584 | Estimate based on FY21 actual exp. |
| Travel (includes motor pool) | | 592 | 592 | Estimate based on FY21 actual exp. |
| Training | | 275 | 275 | Estimate based on FY21 actual exp. |
| Communications | | 1,221 | 1,221 | Estimate based on FY21 actual exp. |
| Total Operating Costs | | 32,924 | 32,924 | |

| | |
|-----------------------------------|------------------|
| Total Biennium - Operating | \$ 65,848 |
|-----------------------------------|------------------|

| <i>Grants to Counties</i> | | 2024 | 2025 | Notes |
|---------------------------|--|----------------|----------------|-------|
| Yellowstone | | 198,000 | 198,000 | |
| Missoula | | 140,000 | 140,000 | |
| Butte Silverbow | | 90,000 | 90,000 | |
| Lewis & Clark | | 97,000 | 97,000 | |
| Lake | | 70,000 | 70,000 | |
| | | 10,000 | 10,000 | |
| | | 10,000 | 10,000 | |
| Total Grants | | 615,000 | 615,000 | |

| | |
|--------------------------------|------------------|
| Total Biennium - Grants | 1,230,000 |
|--------------------------------|------------------|

| <i>Total Costs Each FY</i> | | 2024 | 2025 |
|----------------------------|--|---------|---------|
| | | 843,548 | 843,972 |

| | |
|-----------------------------|------------------|
| Total Costs Biennium | 1,687,520 |
|-----------------------------|------------------|