



South Carolina Department of Insurance

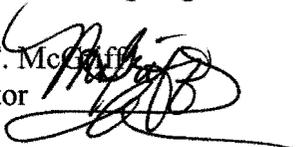
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BULLETIN 2012-02

TO: Insurers Underwriting Surety (Bail) in South Carolina; Surety Bondsman
Executing or Countersigning Bail Bonds as Agents for Insurers in South Carolina

FROM: Gwendolyn F. McCaffrey
Acting Director 

SUBJECT: Bail Bond Premiums Reporting

DATE: June 14, 2012

I. PURPOSE

On October 12, 2010, the South Carolina Department of Insurance (the "Department") issued Bulletin 2010-11 reminding insurers writing bail bond premiums, that pursuant to South Carolina law, that they must, for premium tax purposes, report gross (total) premiums written for bail bonds in this State and reminding those insurers of their legal obligation to keep complete and accurate records of the total consideration paid for all bail bonds written.

Bulletin 2010-11 and this Bulletin are a restatement of the existing law and not a change in the law or of its interpretation by the Department of Insurance.

The purpose of this Bulletin is:

- (1) to remind surety bondsmen appointed by an insurer that execute or countersign bail bonds in South Carolina that they are required to report to such insurer the gross(total) premiums written for such bail bonds and,
- (2) to remind insurers of their responsibility to obtain complete information and maintain accurate records of business done by them and to properly oversee the surety bondsmen acting as their agents to assure they are providing accurate and complete information to the insurer when issuing the surety bond.
- (3) to remind agents and insurers that the gross premium charged must be recorded on the "Power" itself.

II. DISCUSSION

A "surety bondsman" is a person who is approved by and licensed by the Director of the Department (the "Director") or his designee as an insurance agent, appointed by an insurer by power of attorney to execute or countersign bail bonds for the insurer in connection with judicial

proceedings, and receives or is promised money or other things of value for the execution or countersignature. *See* S.C. Code Ann. §38-53-10(12) (2002).

As a licensed insurance agent, a surety bondsman is required to make and keep a full and correct record of the business done by the bondsman, showing the number, date, term, amount insured, premiums, and the person to whom issued of every policy or certificate of renewal. *See* S.C. Code Ann. §38-43-250 (2002). The information from these records must be furnished to the Director or his designee on demand and the original books or records are open to the inspection of the Director or his designee on demand. *Id.*

All companies doing any kind of insurance business in this State shall make and keep a full and correct record of the business done by them, showing the number, term, amount insured, premiums, and the person to whom issued of every policy or certificate for renewal. This information must be furnished to the director or his designee on demand and the original books or records must be open to the inspection of the director or his designee on demand. These records must be kept for a minimum of five years. *See* S.C. Code Ann. §38-13-120

The Director has the full power and authority to administer the provisions of Title 38, Chapter 13 and Chapter 53 governing insurers underwriting surety (bail) insurance and bail bondsmen and runners for which the Director is charged with implementing. S.C. Code Ann. §§38-3-10 *et al.*, and 38-53-20. The Director is charged with implementing the licensure provisions of Chapter 53 for surety bondsmen and has the right to deny, suspend, revoke or refuse to renew any license for, among other things, charging or receiving as premium or compensation for the making of any bail bond any sum in excess of that permitted by Chapter 53. *See* S.C. Code Ann. §38-53-150 (2002).

The Director continues to find that insurers writing bail bond premiums in South Carolina will not be able to comply with their obligations to report gross (total) premiums for surety(bail) bonds unless they (i) maintain complete and accurate records of the total consideration paid (gross total premiums) for said surety (bail) bonds and (ii) properly oversee their surety bondsmen agents to insure that they furnish complete and accurate information to such insurers, and (iii) such furnishing of information is appropriate for the administration of the licensure provisions of Chapter 53.

Accordingly, pursuant to S.C. Code Ann. §§38-43-250 and 38-53-20, all related insurance regulations and DOI bulletins, the Department is hereby reminding and is continuing to require each surety bondsman appointed by an insurer that execute or countersign bail bonds in South Carolina to furnish to such insurer, on a regular and continuing basis (or otherwise upon request by such insurer) the total consideration paid for such bail bonds as well as other information needed by the insurer for its records or as required by the Department. Such information must be furnished for all surety (bail) bonds written prior to, on or after the date of this Bulletin.

In addition, pursuant to §38-13-120, the Department is reminding and continuing to require the insurers offering surety (bail) insurance of their responsibility to obtain, verify and maintain said information pursuant to South Carolina insurance statutes, regulations and DOI bulletins.

Insurers underwriting surety (bail) and surety bondsmen are subject to examination or audit by the Department at any time pursuant to S.C. Code Ann. §§ 38-13-120 and 38-43-250.

The attached excel spreadsheet must be used by surety bondsmen to provide the information to the insurers required pursuant to the statutes, regulations and this bulletin. Additional information may be requested by individual insurers as is needed to maintain accurate and complete records as required by S.C. statutes and regulations.

III. QUESTIONS

Questions regarding this bulletin should be submitted in writing to:

Willie Seawright
Manager, Specialty Licensing Services
South Carolina Department of Insurance
1201 Main Street, Suite 1000
Columbia, S.C. 29201

Attachment

