

ALABAMA PROFESSIONAL BAIL BONDING BOARD

CHAPTER 153-X-11 DISCIPLINARY PROCEEDINGS

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153-X-11-.01 Disciplinary Action

(1) All disciplinary actions taken by the Alabama Professional Bail Bonding Board are to be communicated in writing to the licensee.

(2) The following disciplinary actions may be taken by the Alabama Professional Bail Bonding Board:

- (a) Fine: A monetary penalty up to \$1,000 imposed by the Board.
- (b) Probation: The monitored practice of bail bonding services which permits the bondsman or agent to continue to render services pursuant to specified conditions as set forth by the Board.
- (c) Suspension: The temporary withdrawal of the license by Board action.
- (d) Revocation: The withdrawal of the license by Board action.
- (e) Voluntary Surrender: The voluntary relinquishment of a license that has the force and effect of revocation.

(3) Upon self-disclosure or receipt of a written complaint on an APBB Consumer Complaint Form signed by the person making the complaint, alleging that a bail bondsman/ or agent has violated a statute or rule by committing one or more of the actions specified as grounds for disciplinary action, the Executive Director and a designated board member shall perform a preliminary review of the facts stated to determine if a violation of the Board's law or its rules may have occurred. The Consumer Complaint Form must be completed before an investigation

is initiated. Complaints must be submitted to the Board within ninety (90) days of the alleged occurrence.

(4) When a preliminary review discloses that further investigation is not warranted, the Executive Director and designated board member may close the investigative file without any further action. All closed non-founded complaints are not public information and will not be considered a part of the licensee's file.

(5) When the Executive Director and designated board member determines there may be merit and sufficient evidence to warrant an investigation, an investigative committee shall be formed, consisting of one (1) Board member, Board counsel, and the Executive Director.

(a) Within five (5) business days of receipt of a written complaint being filed against a licensee the Board or its designee shall notify the licensee of the allegations and provide a copy of the complaint by certified mail, addressed to the last known address of the licensee on file with the Board. The licensee may submit a written response to the allegations, together with any supporting documentation, to the Executive Director within fifteen (15) days of receipt of the Board's notification. In addition to submitting a written response to the allegations, a licensee may submit a written request to speak to the investigative committee in person in response to the complaint within fifteen (15) days of receipt of the Board's notification. It is solely within the discretion of the investigative committee to grant or deny a request to meet with the investigative committee.

(b) The committee shall review the complaint and other information submitted to determine if further investigation is warranted.

(1) If further investigation is warranted, the Board's investigator shall conduct a further investigation under the direction of the Executive Director and designated board member;

(2) At the conclusion of the investigation, the investigator shall submit a report to be reviewed by the investigative committee, which has the authority to act on the report;

(3) The investigative committee shall send written notification to the complainant and the licensee of any action it decides to take in response to the investigative report.

(c) If the committee determines that an investigation is not warranted, the Executive Director and designated board member may close the investigative file. The Executive Director shall notify the complainant and the licensee against whom the complaint was made that the investigation has been closed and that no further actions will be taken.

(6) The investigative committee shall have the power to act on the report of the investigation as follows:

(a) Dismiss the complaint for no violation found.

(b) Enter into settlement negotiations that must be accepted and approved by the

Board.

- (c) Commence disciplinary proceedings for a hearing before the Board.
- (d) Accept voluntary surrender of a license.

Author: Alabama Professional Bail Bonding Board

Statutory Authority: Code of Ala. 1975, §15-13-215

History: Filed April 30, 2020, Operative June 5, 2020

153-X-11-.02 Alabama Administrative Procedure Act The Board hereby adopts by reference as its rules Section 41-22-1, et seq., **Code of Alabama (1975)**, governing contested cases, appeals, and related proceedings.

Author: Alabama Professional Bail Bonding Board

Statutory Authority: Code of Ala. 1975, §15-13-216

History: Filed April 30, 2020, Operative June 5, 2020

153-X-11-.03 Formal Disposition of Contested Cases

(1) At least thirty (30) days prior to the administrative hearing, a notice of hearing and a copy of the charges shall be served on the applicant or licensee via personal service or registered or certified mail to the last known address for the applicant or licensee on file with the Board. If service of process is refused or unclaimed, and the certified mail receipt or the return of the person serving process so indicates, the Board may serve the document by first-class mail addressed to the licensee or other person at his or her last known address as shown in the Board's records. Service shall be deemed complete three (3) days after the depositing of same in the United States mail.

(2) The Board's complaint may be amended prior to the hearing, but no amendment shall be permitted on fewer than thirty (30) days' notice which is not germane to the initial charge or charges or which materially alters the nature of any offense charged in the initial complaint.

(3) Requests for subpoenas shall be filed with the Hearing Officer at least fifteen (15) days prior to the hearing along with the appropriate subpoena-processing fee. Any expense for service by a sheriff, process server, or other entity shall be the responsibility of the party requesting the subpoena. Any expenses incurred relative to subpoenas requested by a respondent, either for witnesses or related to production of documents, are the responsibility of the party requesting the issuance of said subpoena.

(4) The hearing shall be conducted by a hearing officer appointed by the Board in accordance with the hearing procedures set forth in the **Alabama Administrative Procedure Act**, Section 41-22-1, et seq., **Code of Alabama (1975)**. The hearing officer shall have the authority to perform those acts set forth in Section 41-22-12(c), **Code of Alabama (1975)**, and shall rule on all questions of evidence and procedure, notwithstanding any other provisions of these rules to the contrary. All testimony provided at the hearing shall be under oath, and a record of the proceeding shall be transcribed by a court reporter scheduled by the Board.

Author: Alabama Professional Bail Bonding Board

Statutory Authority: Code of Ala. 1975, §15-12-216

History: Filed April 30, 2020, Operative June 5, 2020

153-X-11-.04 Informal Disposition of Contested Cases

(1) Complaints or controversies may be considered and resolved by the Board through informal conferences, meetings, or other informal means. Such informal measures shall be held without prejudice to the right of the Board thereafter to institute formal proceedings based upon the same or related material if circumstances so warrant.

(2) Informal dispositions may be made of any contested case by stipulation, agreed settlement, consent order or default, or by another method agreed upon by the parties in writing, subject to the approval of the Board.

(3) A majority of those members on the Board present and voting on any matter shall decide that matter before the Board.

(4) Decisions of the Board approving the informal disposition of a contested case or denying approval of an application for licensure or renewal or reinstatement of a license shall be in writing in the form of an order. The Board's final order shall be rendered within thirty (30) days of the date of its consideration of the informal disposition of the contested case or the application for licensure or renewal or reinstatement of a license. A copy of the Board's final order shall be mailed to the applicant or bondsman or agency by certified mail, return receipt requested, with a copy of the order delivered to the bondsman's attorney by first class mail.

(5) Appeals from decisions of the Board denying approval of an application for licensure or renewal or reinstatement of a license are to be made in writing to the Board office within ninety (90) days of the date of the final order. Further appeal is then available in Circuit Court pursuant to the requirements of the **Alabama Administrative Procedure Act**.

Author: Alabama Professional Bail Bonding Board

Statutory Authority: Code of Ala. 1975, §15-13-207; §15-13-210

History: Filed April 30, 2020, Operative June 5, 2020

153-X-11-.05 Decision of the Board

- (1) Based upon the evidence presented at the administrative hearing, the Board may do one or more of the following:
 - (a) Dismiss the complaint.
 - (b) Suspend the professional bail bondman's license. A suspended license is subject to expiration during the suspension period and must still be renewed. Only a current license may be restored to the licensee at the end of the suspension period.
 - (c) Revoke the bondsman or agent's license.
- (2) The Board may levy a fine not to exceed one thousand dollars (\$1,000) per violation. Each incident, after Board notice of a violation of its rules and regulations or statute, may be considered as a separate violation.
- (3) A majority of those members on the Board present and voting on any matter shall decide that matter before the Board.
- (4) The decisions of the Board shall be in writing in the form of an order, which shall be made part of the record and include findings of fact and conclusions of law specifically stated. The Board's final order shall be rendered within thirty (30) days of the date of receipt by the Board of the hearing officer's recommended order. A copy of the Board's final order shall be mailed to the bail bondman by certified mail, return receipt requested, with a copy of the order delivered to the bail bondsman's attorney by first class mail.
- (5) The decisions of the Board shall be subject to public dissemination, i.e. website, etc.
- (6) Requests for reconsideration of decisions of the Board are to be filed with the Board office within ninety (90) days following the date of the Board's final order. Further appeal is then available in Circuit Court pursuant to the requirements of the **Alabama Administrative Procedure Act**.

Author: Alabama Professional Bail Bonding Board

Statutory Authority: Code of Ala. 1975, §15-13-207; §15-13-210

History: Filed April 30, 2020, Operative June 5, 2020

153-X-11-.06 Application Following Denial of Licensure

- (1) Application for a license following denial of licensure shall:

(a) Include evidence of resolution of the stated reasons for denial in the Board's final order.

(b) Re-application may occur twelve (12) months after the denial of licensure.

(2) Board action on applications following denial of licensure may be taken informally or through the formal hearing process.

(3) In considering a subsequent application for licensure, the Board may evaluate factors that include but are not limited to:

(a) The severity of the act(s) or omission(s) which resulted in the denial of licensure.

(b) The conduct of the applicant subsequent to the denial of licensure;

(c) The lapse of time since denial of licensure.

(d) Compliance with any conditions stipulated by the Board as a prerequisite for a subsequent application.

(e) Evidence of rehabilitation, as shown by affidavits provided directly to the Board from qualified individuals who have professional knowledge of the applicant.

(f) Whether the applicant is in violation of any applicable statute or rule.

Author: Alabama Professional Bail Bonding Board

Statutory Authority: Code of Ala. 1975, §15-13-210; §15-13-215

History: Filed April 30, 2020, Operative June 5, 2020

153-X-11-.07 Reinstatement of Revoked, Suspended, or Expired License

(1) Reinstatement of a revoked or suspended license due to violations of Board statutes or rules:

(a) Application for reinstatement:

1. May be made twelve (12) months after the effective date of revocation unless otherwise specified in the Board's final order revoking or suspending the license of a professional bail bonds, professional surety, or recovery agent; and

2. Shall be made according to forms and guidelines provided by the Board;

3. Applicants for reinstatement of revoked or suspended licenses are required to have paid all current and past due fees and fines to the Board. In addition, applicants for

reinstatement of a revoked license must meet all current certification requirements, including passage of the written examination, and any additional requirements imposed under the Board's rules.

(b) Applications for reinstatement of a revoked or suspended license may be resolved informally or through the formal hearing process.

(c) In considering reinstatement of a revoked or suspended license, the Board may evaluate factors that include but are not limited to:

1. Severity of the act(s) that resulted in suspension or revocation of the license;
2. Conduct of the applicant subsequent to the suspension or revocation of license;
3. Lapse of time since suspension or revocation;
4. Compliance with all reinstatement requirements stipulated by the Board;
5. Evidence of rehabilitation as shown by affidavits provided directly to the Board from qualified individuals who have professional knowledge of the applicant;
6. Whether the applicant is in violation of any applicable statute or rule;
7. Whether, directly or by implication, the applicant has represented in any way that he/she is a licensed professional bail bondsmen, professional surety, or recovery agent.

(2) Reinstatement of an expired license due to failure to renew during the grace period:

(a) Application for reinstatement:

1. May be made at any time after the license expired due to a failure to renew during the grace period;
2. Shall be made according to forms provided by the Board.
3. An expired license may not be reinstated until the licensee has paid all delinquent fees and met all current certification requirements, including passage of the written examination, and any additional requirements imposed under the Board's rules.

(b) Applications for reinstatement may be approved by the Executive Director and a designated board member or by a vote of the Board at a scheduled board meeting.

(c) In considering reinstatement of an expired license, the Board or its Executive Director may evaluate factors that include but are not limited to:

1. Whether the individual has continued to practice without a license;
2. Whether the individual responded to Board correspondence;
3. Whether the individual provided the Board's administrative office with updated addresses and telephone numbers.

(d) An affirmative vote of a majority of the members of the board is required to reinstate a revoked, suspended or expired license.

(3) Applicants for reinstatement of a revoked, suspended or expired license must pay a reinstatement fee.

(4) Applicants for reinstatement of a revoked, suspended, or expired license must complete Continuing Education Units (CEUs) for each renewal period the applicant has failed to renew the license, unless otherwise specified in the Board's final order revoking or suspending the licensee

Author: Alabama Professional Bail Bonding Board

Statutory Authority: Code of Ala. 1975, §15-13-210; §15-13-215

History: Filed April 30, 2020, Operative June 5, 2020

153-X-11-.08 Reconsideration

(1) A licensee may appeal a decision of the Board by submitting a request for reconsideration to the Board office within ninety (90) days following the date of issuance of a final order of the Board.

(2) The request should be based upon newly discovered evidence which would justify relief from the decision rendered.

(3) Such requests should include, by written memorandum or brief, the detailed basis for such reconsideration. The opposing party shall have the opportunity to present a written reply memorandum or brief challenging such basis within thirty (30) days from the submission of the request for reconsideration.

(4) The Board shall review the written arguments of the parties at its next regular or special meeting and, based upon such review, determine in its discretion by a majority vote of those members on the Board present and voting on such matter, whether to sustain its previous decision or grant such relief from the decision as may be appropriate. In reviewing the request, the Board may, at its sole discretion, hear further oral argument or new sworn testimony or suggest supplemental responses. The Board shall render a written order setting forth the determination of the Board within thirty (30) days of the vote reflecting the decision of the Board.

(5) The filing of the request for reconsideration shall be at the option of the parties and should not be deemed as a prerequisite to, or hindrance of, a party's right to judicial review of a Board decision in accordance with the procedures provided under the **Alabama Administrative Procedure Act, Chapter 22, Title 41, Code of Alabama (1975)**.

Author: Alabama Professional Bail Bonding Board

Statutory Authority: Code of Ala. 1975, §15-13-210; §15-13-215

History: Filed April 30, 2020, Operative June 5, 2020

153-X-11-.09 Conflict and Bias

(1) No Board member who has a disqualifying conflict or bias against an applicant or licensee shall participate or vote in the consideration of any application, information disposition of a contested case, or any disciplinary proceeding before the Board concerning the applicant or licensee.

(2) Any challenge to a Board member's participation based upon any alleged conflict or bias shall be filed within the time set for the filing of motions as established by the hearing officer. Any such challenge shall be accompanied by an affidavit(s) stating with specificity the basis for the alleged conflict or bias.

Author: Alabama Professional Bail Bonding Board

Statutory Authority: Code of Ala. 1975, §15-13-207

History: Filed April 30, 2020, Operative June 5, 2020