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SEP 24 2003
OPINION COMMITTEE

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September 17, 2003

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RETURN RECEIPT REQUESTED

Honorable Greg Abbott
Attorney General of Texas
P.O. Box 12548
Austin, Texas 78711-2548

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SEP 22 2003

OPEN RECORDS DIVISION

Dear General Abbott:

On behalf of the Montgomery County Attorney's Office, I am requesting an opinion in response to a question raised by the Presiding Officer of the Montgomery County Bail Bond Board (Exhibit A). Specifically, the Presiding Officer has asked whether a surety operating as an agent for a corporation must obtain a separate license from that of the corporation's license (including filing a separate application, paying an additional \$500.00 fee, and posting separate security). I have provided the following in aid of seeking an opinion (including changes made by S.B. 1336):

Analysis

The Occupations code has been cited to the Board as authority for requiring a corporate agent to have their own application and license.

Section 1704.151, License Required, provides the following:

Except as provided by Section 1704.163 (Attorney Exemption), a person may not act as a bail bond surety or an agent for a corporate surety in the county unless the person holds a license issued under this chapter.

Therefore, "a person" may not act as an agent for a corporate surety unless that person holds a license. To obtain a license, there must an application filed with the Board, and the applicant must meet certain eligibility requirements as set forth below:

Section 1704.152. Eligibility

(a) To be eligible for a license under this chapter, an individual, including an agent designated by a corporation in an application, must:

- (1) be a resident of this state and a citizen of the United States;
- (2) be at least 18 years of age;
- (3) possess the financial resources required to comply with Section 1704.160, unless the individual is acting only as agent for a corporation holding a license under this chapter; and
- (4) have, in the two years preceding the date a license application is filed:
 - (A) at least one year of continuous work experience in the bail bond business; and

- (B) completed in person at least eight hours of continuing legal education in criminal law courses or bail bond law courses that are approved by the State Bar of Texas and that are offered by an accredited institution of higher education in the state.

Section 1704.154. Application Requirements

- (a) To be licensed under this chapter, a person must apply for a license by filing a sworn application with the board.
- (e) A corporation must file a separate corporate application for each agent the corporation designates in the county.

Therefore, each person who is to act as a bail bond surety or as an agent for a corporation must have a license. To obtain that license, a person must file an application and meet minimum criteria. The only difference between an individual licensee and a corporate agent is that the corporate agent need not meet minimum financial resources, due in part to the following:

Section 1704.160 Security Deposit

- (b) A deposit made under Subsection (a)(1)(A) or (a)(2) may not be less than \$50,000. **A Corporation must make a separate deposit for each license granted to it in a county.** A Deposit made to a county with a population of less than 250,000 shall be placed in a fund known as a bail security fund.

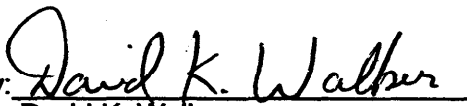
In Attorney General Opinion JC-0128, the above issue was discussed as it applied to previous versions of the various statutes. The Attorney General opined that a bail bond board may not require a corporate surety to furnish a separate letter of credit for each licensed agents. However, as amended, Section 1704.160 specifically requires a separate deposit for each license.

It appears that the legislature intends that each corporate agent must have their own license, apart from their corporations, and must file their own application, application fee, and security.

If you have questions or need further information, please call Robert Rosenquist, Assistant County Attorney at (936)539-7828.

Sincerely,

MONTGOMERY COUNTY
ATTORNEY'S OFFICE

By: 
David K. Walker,
County Attorney