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OPINION COMMITTEE

JAMES M. KUBOVIAK
COUNTY ATTORNEY
BRAZOS COUNTY, TEXAS

TELEPHONE
979/361-4300

300 E. 26th
SUITE #325
BRYAN, TEXAS 77803

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FILE # ML-44122-05

I.D. # 044122

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

RQ-D315-GA

Dear General Abbott:

On behalf of the Brazos County Bail Bond Board, I am respectfully requesting your opinion on the following issue:

May the Brazos County Bail Bond Board aggregate a license holder's years in the bail bond business under two separate individual bail bond licenses for purposes of determining the financial capacity of the license holder under the Texas Occupations Code §1704.203(f)?

Our brief on the issue is attached. We would appreciate an opinion at your earliest convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "James M. Kuboviak", written in a cursive style.

James M. Kuboviak
Brazos County Attorney

May the Brazos County Bail Bond Board aggregate a license holder's years in the bail bond business under two separate individual licenses for purposes of determining the financial capacity of the license holder under Texas Occupations Code §1704.203(f)?

The Brazos County Bail Bond Board ("Board") was created in 1983 in accordance with the Bail Bond Act, Texas Revised Civil Statutes art. 2372p-3 (now Chapter 1704 of the Texas Occupations Code).

In 1983, an individual applied for a bail bond surety license. The Board tentatively approved the application and, after the applicant met the security requirements of art. 2372p-3, issued him an individual surety license numbered 1-83. Every 24 months thereafter, within the time periods allowed by law, the license holder filed an application to renew his license. The Board approved each renewal application until 2001. In 2001 the Board denied the license holder's renewal application because of his violations of chapter 1704, including the failure to timely pay judgments on forfeited bonds and the failure to submit a complete, sworn financial statement.¹

In 2002, the same individual filed a new application for an individual bail bond license. After conducting a hearing on the application, the board entered an order conditionally approving the application. The order became final on the date the applicant complied with the security requirements of Chapter 1704 by depositing a certificate of deposit with the county treasurer and by executing in trust to the Board a deed to a parcel of nonexempt real property. The Board issued him license no. 1-02.

The surety who holds license no. 1-02 currently complies with §1704.203(f). Tex. Occ. Code §1704.203(f)(Vernon 2004). The surety believes that the Board

¹ See Ellen v. Brazos County Bail Bond Board, 127 S.W. 3d 42 (Tex. App. – Houston [14th Dist.] 2003, no writ)

should use his prior years of experience under license no. 1-83 in determining which subsection of 1704.203(f) applies to him.

Under section 1704.203(f), the amount a license holder may write in bail bonds depends upon the amount of security deposited or executed under section 1704.160. *See id.* §1704.203(f). The amount also depends upon when and for how long the license holder has been licensed. *See id.* §1704.203(f). The statute provides a sliding scale limit for a bondsman licensed on or after September 1, 1999. For example, the financial capacity of a license holder who has deeded in trust to the board a parcel of nonexempt real property and who has been licensed fewer than two years is limited to five times the value of the property held in trust. *See id.* §1704.203(f)(1).

In opinion no. GA-0058, you held that in a county where a bail bond board was created after September 1, 1999, a surety must comply with section 1704.203(f) because no bail bond surety's license could have been "originally issued" prior to the creation of a bail bond board. Op. Tex. Att'y Gen. No. GA-0058 (2003)(quotation marks in original). The bail bond sureties in such a county could have been licensed only from the date of the creation of the bail bond board.

Does your analysis with regard to a "license", and the date a license was "originally issued" apply to the holder of license no. 1-02 in Brazos County for purposes of calculating the bail bond to security ratio? If so, the result would seem to be that for a license holder whose license was issued on or after September 1, 1999, the time period for purposes of determining the number of years the surety has been licensed would start on the date the license is issued, without regard to any prior years as a license holder. Thus, for a bail bond surety whose license was originally issued in 2002, the Board would calculate the number of years he was licensed beginning with the year 2002.

If you answer that a license holder is able to aggregate all the years he has been licensed under Chapter 1704 for purposes of determining his financial capacity, would he also be able to aggregate the years he has been licensed under Chapter 1704 in another county? In addition, if a license holder is able to aggregate all the consecutive years under a former license, would the license holder then be able to renew his license for a period greater than 24 months under section 1704.162? *See id.* §1704.062.

Thank you for your assistance in answering these questions.