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OPINION COMMITTEE



JOHN R. ROACH
CRIMINAL DISTRICT ATTORNEY
COLLIN COUNTY COURTHOUSE
210 S. McDONALD, SUITE 324
MCKINNEY, TEXAS 75069
972-548-4323
METRO 424-1460
FAX NO'S. 972-548-4388/972-548-4565
www.collincountyda.com

April 16, 2007

RQ-0585-GA

VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

The Honorable Greg Abbott
Attorney General of Texas
Office of the Attorney General
PO Box 12548
Austin, TX 78711-2548

FILE # ML 45205-07
I.D. # 45205

RE: Request for Attorney General Opinion

Dear Attorney General Abbott:

As the duly elected District Attorney of Collin County, Texas, and as a statutory member of the Collin County Bail Bond Board¹, I am respectfully requesting an Attorney General Opinion interpreting TEXAS OCCUPATIONS CODE §1704.162. Specifically, the question to be answered is: whether the Collin County Bail Bond Board can implement a Local Rule which allows a temporary extension of the license expiration dates set forth in §1704.162 ?

I.

Pertinent sections of the Occupations Code and Collin County Bail Bond Board Local Rule

§1704.162 of the OCCUPATIONS CODE reads, in pertinent parts, as follows:

“(a) a license issued or renewed under this chapter expires on the second anniversary² after the date the license is issued or is to expire, if . . .

* * * * *

¹See, TEX. OCCUP. CODE §1704.053(5).

²Section 1704.162(e) provides for a 3 year renewal period if certain criteria are met.

- (d) A board shall approve an application for renewal if:
 - (1) the applicant's current license is not suspended or revoked;
 - (2) the application complies with the requirements of this chapter;
 - (3) the board does not determine that a ground exists to deny the application.

* * * * *

- (g) The Board may disapprove an application only by entering an order.

The Collin County Bail Bond Board's Local Rule 2.13 provides in pertinent part that:

"In the event the Board fails for any reason to act upon a renewal application prior to expiration date, a temporary permit may be issued pending final action"

The Board and its attorney have carefully reviewed the OCCUPATIONS CODE Chapter 1704 and could locate nothing which specifically permits, nor prohibits, the temporary extension of a license past its 2 or 3 year expiration date. However, Section 1704.159 of the OCCUPATIONS CODE provides that:

- (a) After a hearing under Section 1704.158, the board shall enter an order conditionally approving the application unless the board determines that a ground exists to deny the application. If the board determines that a ground exists to deny the application, the board shall enter an order denying the application.
- (b) An order issued under Subsection (a) conditionally approving an application becomes final on the date the applicant complies with the security requirements of Section 1704.160.

Moreover, Section 1704.101 provides the Board with powers and authority to:

- (1) exercise powers incidental or necessary to the administration of this chapter;
- * * * * *
- (4) adopt and post rules necessary to implement this chapter.

The policy underlying the Collin County Bail Bond Board's Local Rule 2.13 is to allow for the continuous operation of a bail bond business which may have inadvertently omitted certain required information from its renewal application.³ For example, failing to attached the required three letters of recommendation⁴ or providing a photograph.⁵ By temporarily issuing a permit

³§1704.154 sets forth the application requirements.

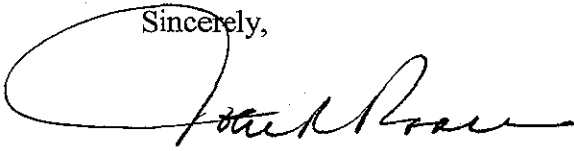
⁴§1704.154(b)(4)(C)

pending final action, the license holder does not go out of business for what could be a 30 or 60 day period, depending on when the next Bail Bond Board Meeting is conducted.

In light of these various sections of the Occupations Code and the authority given to the Board, combined with the application of the rules of statutory interpretation, it remains unclear to the Board whether it has authority under the OCCUPATIONS CODE to implement Local Rule 2.13 and temporarily extend the expiration date past the applicable two or three year time period.

Thank you for your prompt consideration of this request. Please let me know if you have any questions or require additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "John R. Roach", written over a large, loopy initial "J".

John R. Roach
Criminal District Attorney
Collin County, Texas