



ADMINISTRATIVE RULES OF MONTANA

6.6.6003 COLLATERAL, TRUST ACCOUNTS, RECORDS OF ARREST AND SURRENDER, LIST OF FORFEITURES, COSTS, NOTICE OF INCARCERATION

- (1) Any collateral security required by a surety bail insurance producer must be commercially reasonable in relation to the amount of the bond. The value of any collateral security received by a surety bail insurance producer must not exceed two-and-one-half times (250%) the amount of the bond unless no other collateral is available. Any collateral must be acquired and secured by a signed security agreement and in accordance with Montana law.
- (2) A surety bail insurance producer who accepts collateral shall give the principal the security agreement and a written receipt for the collateral. The receipt must give a detailed description of the collateral received.
- (3) Collateral security must be held and maintained in trust. When collateral security is received in the form of cash, check, or other negotiable instrument, and unless cash collateral is deposited with and held in trust by the commercial bail bond surety insurer, the surety bail insurance producer shall deposit the cash or instrument, within five banking days after receipt, in a trust account in a bank insured by the Federal Deposit Insurance Corporation. The trust account may not contain operating or personal funds.
- (4) When personal property is received as collateral, the surety bail insurance producer must comply with the Montana Uniform Commercial Code-Secured Transactions, 30-9A-101, et seq, MCA.
- (5) Each surety bail insurance producer shall keep records identifying all collateral received, the source of funds placed into all trust accounts, security agreements, and the terms of all commercial bail bond transactions. The records are open to inspection without notice by the commissioner.
- (6) If the court exonerates a bail bond, the surety bail insurance producer shall return all collateral or other security to the person entitled to it within five business days after receipt of written notification of exoneration. All collateral or security must be returned in the condition it was received, and at the location it was received, at the principal's address, or the parties may mutually agree to another location.
- (7) Each surety bail insurance producer shall maintain and retain for three years, and update on a continual basis:
 - (a) a list of forfeitures, which must include the names of the principal and indemnitor, the case name and number, the date of the forfeiture; and
 - (b) a list of arrests and surrenders, which must include the names of the principal and indemnitor, the case name and number, and the date of the failure of the principal to appear.

- (8) A surety bail insurance producer may bill the principal for actual and reasonable costs, listed in this rule, which the surety bail insurance producer incurs in securing the appearance or arrest of a principal. A surety bail insurance producer shall keep receipts for actual costs for a period of three years. The costs which a surety bail insurance producer may recover from the principal, in addition to the premium or bail amount, are limited to the actual and reasonable direct expenses, including but not limited to gasoline, and food and lodging, incurred in searching for, arresting, and transporting (to a detention facility) the principal.
- (9) If collateral is liquidated it must be done according to commercially reasonable standards and lawful procedures, and the balance, if any, must be returned to the principal or indemnitor as appropriate within ten business days of liquidation. For purposes of this rule, "balance" means the amount obtained by lawful liquidation of the collateral, minus the amount of premium or bail and costs allowed pursuant to (8), which are due to the surety bail insurance producer. Prior to initiating any liquidation process, the principal must be given 30 days' written notice from the surety bail insurance producer, and an opportunity to pay all costs and fees in lieu of liquidation. The surety bail insurance producer cannot send this notice or initiate any liquidation process until 90 days after a court issues an order of forfeiture pursuant to 46-9-503(2), MCA.
- (10) If the surety bail insurance producer fails to return the collateral or violates any provision of these rules or other Montana laws in the liquidation or the failure to return the collateral, the surety bail insurance producer shall be subject to a maximum penalty of three times the value of the collateral, or \$1000, whichever is greater.

Authorizing statute(s): 33-1-313, 33-26-108, MCA

Implementing statute(s): 33-17-1001, 33-17-1102, 33-26-108, MCA

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