

The Law Relating to Bail Bond Agents

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Chapter 18.185 RCW

BAIL BOND AGENTS

Sections

18.185.005	Declaration, intent, construction.
18.185.010	Definitions.
18.185.015	Cost of administration—Fees.
18.185.020	Agent license requirements.
18.185.030	Agency license requirements.
18.185.040	License applications.
18.185.050	License cards, certificates—Advertising—Notice of changes.
18.185.055	License suspension—Nonpayment or default on educational loan or scholarship.
18.185.056	License suspension—Electronic benefit cards.
18.185.057	License suspension—Noncompliance with support order—Reissuance.
18.185.060	Prelicensing training and continuing education requirements.
18.185.070	Bond.
18.185.080	Relation of this chapter to local regulation, taxation.
18.185.090	Notice concerning agent's status—Forced entry—Discharge of firearm.
18.185.100	Records—Finances—Disposition of security.
18.185.110	Unprofessional conduct.
18.185.120	Director's powers.
18.185.130	Complaints.
18.185.140	Statement of charges—Notice.
18.185.170	Unlicensed activity—Criminal penalties.
18.185.200	Application of Administrative Procedure Act.
18.185.210	Application of Consumer Protection Act.
18.185.220	Branch office—Qualified bail bond agent as manager.
18.185.230	License required for branch office.
18.185.240	Uniform regulation of business and professions act.
18.185.250	Bail bond recovery agent license—Requirements.
18.185.260	Bail bond recovery agents—Prelicense training/testing requirements—Continuing education requirements—Rules.
18.185.270	Bail bond agent/bail bond recovery agent—Each fugitive an individual contract—Format of contract.
18.185.280	Bail bond recovery agent, generally.
18.185.290	Out-of-state bail bond recovery agent.
18.185.300	Bail bond recovery agent—Planned forced entry—Requirements.
18.185.310	Military training or experience.
18.185.900	Severability—1993 c 260.
18.185.901	Effective date—1993 c 260.

18.185.005 Declaration, intent, construction. The legislature declares that the licensing of bail bond agents should be uniform throughout the state. Therefore, it is the intent of the legislature to preempt any local regulation of bail bond agents, including licensing fees, but not including local business license fees. Nothing in this chapter limits the discretion of the courts of this state to accept or reject a particular surety or recognizance bond in a particular case. [1993 c 260 § 1.]

18.185.010 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

- (1) "Department" means the department of licensing.
- (2) "Director" means the director of licensing.
- (3) "Commission" means the criminal justice training commission.
- (4) "Collateral or security" means property of any kind given as security to obtain a bail bond.
- (5) "Bail bond agency" means a business that sells and issues corporate surety bail bonds or that provides security in the form of personal or real property to ensure the appearance

of a criminal defendant before the courts of this state or the United States.

(6) "Qualified agent" means an owner, sole proprietor, partner, manager, officer, or chief operating officer of a corporation who meets the requirements set forth in this chapter for obtaining a bail bond agency license.

(7) "Bail bond agent" means a person who is employed by a bail bond agency and engages in the sale or issuance of bail bonds, but does not mean a clerical, secretarial, or other support person who does not participate in the sale or issuance of bail bonds.

(8) "Licensee" means a bail bond agency, a bail bond agent, a qualified agent, or a bail bond recovery agent.

(9) "Branch office" means any office physically separated from the principal place of business of the licensee from which the licensee or an employee or agent of the licensee conducts any activity meeting the criteria of a bail bond agency.

(10) "Bail bond recovery agent" means a person who is under contract with a bail bond agent to receive compensation, reward, or any other form of lawful consideration for locating, apprehending, and surrendering a fugitive criminal defendant for whom a bail bond has been posted. "Bail bond recovery agent" does not include a general authority Washington peace officer or a limited authority Washington peace officer.

(11) "Contract" means a written agreement between a bail bond agent or qualified agent and a bail bond recovery agent for the purpose of locating, apprehending, and surrendering a fugitive criminal defendant in exchange for lawful consideration.

(12) "Planned forced entry" means a premeditated forcible entry into a dwelling, building, or other structure without the occupant's knowledge or consent for the purpose of apprehending a fugitive criminal defendant subject to a bail bond. "Planned forced entry" does not include situations where, during an imminent or actual chase or pursuit of a fleeing fugitive criminal defendant, or during a casual or unintended encounter with the fugitive, the bail bond recovery agent forcibly enters into a dwelling, building, or other structure without advanced planning. [2004 c 186 § 2; 2000 c 171 § 40; 1996 c 242 § 1; 1993 c 260 § 2.]

Legislative recognition—2004 c 186: "The legislature recognizes that bail bond agents and bail bond recovery agents serve a necessary and important purpose in the criminal justice system by locating, apprehending, and surrendering fugitive criminal defendants. The legislature also recognizes that locating, apprehending, and surrendering fugitives requires special skills and expertise; that bail bond agents and bail bond recovery agents are often required to perform their duties under stressful and demanding conditions; and that it serves the public interest to have qualified people performing such essential functions. Therefore, bail bond agencies that use the services of bail bond recovery agents must, in the interest of public safety, use bail bond recovery agents who possess the knowledge and competence necessary for the job." [2004 c 186 § 1.]

18.185.015 Cost of administration—Fees. Pursuant to RCW 43.24.086 and 43.135.055, the department may increase fees as necessary to defray the cost of administering *chapter 105, Laws of 2008 (Engrossed Substitute Senate Bill No. 6347). [2008 c 285 § 29.]

***Reviser's note:** 2008 c 285 § 29 referenced Engrossed Substitute Senate Bill No. 6347. Engrossed Substitute Senate Bill No. 6437 was apparently intended.

Intent—Captions not law—Effective date—2008 c 285: See notes following RCW 43.22.434.

18.185.020 Agent license requirements. An applicant must meet the following minimum requirements to obtain a bail bond agent license:

- (1) Be at least eighteen years of age;
- (2) Be a citizen or resident alien of the United States;
- (3) Not have been convicted of a crime in any jurisdiction in the preceding ten years, if the director determines that the applicant's particular crime directly relates to a capacity to perform the duties of a bail bond agent and the director determines that the license should be withheld to protect the citizens of Washington state. If the director shall make a determination to withhold a license because of previous convictions, the determination shall be consistent with the restoration of employment rights act, chapter 9.96A RCW;
- (4) Be employed by a bail bond agency or be licensed as a bail bond agency; and
- (5) Pay the required fee. [1993 c 260 § 3.]

18.185.030 Agency license requirements. (1) In addition to meeting the minimum requirements to obtain a license as a bail bond agent, a qualified agent must meet the following additional requirements to obtain a bail bond agency license:

- (a) Pass an examination determined by the director to measure the person's knowledge and competence in the bail bond agency business; or
 - (b) Have had at least three years' experience as a manager, supervisor, or administrator in the bail bond business or a related field in Washington state as determined by the director. A year's experience means not less than two thousand hours of actual compensated work performed before the filing of an application. An applicant shall substantiate the experience by written certifications from previous employers. If the applicant is unable to supply written certifications from previous employers, applicants may offer written certifications from persons other than employers who, based on personal knowledge, can substantiate the employment; and
 - (c) Pay any additional fees as established by the director.
- (2) An agency license issued under this section may not be assigned or transferred without prior written approval of the director. [2008 c 105 § 1; 1993 c 260 § 4.]

18.185.040 License applications. (1) Applications for licenses required under this chapter shall be filed with the director on a form provided by the director. The director may require any information and documentation that reasonably relates to the need to determine whether the applicant meets the criteria, including fingerprints.

(2) Applicants for licensure or endorsement as a bail bond recovery agent must complete a records check through the Washington state patrol criminal identification system

and through the federal bureau of investigation at the applicant's expense. Such record check shall include a fingerprint check using a Washington state patrol approved fingerprint card. The Washington state patrol shall forward the fingerprints of applicants to the federal bureau of investigation for a national criminal history records check. The director may accept proof of a recent national crime information center/III criminal background report or any national or interstate criminal background report in addition to fingerprints to accelerate the licensing and endorsement process. The director is authorized to periodically perform a background investigation of licensees to identify criminal convictions subsequent to the renewal of a license or endorsement. [2004 c 186 § 4; 1993 c 260 § 5.]

Legislative recognition—2004 c 186: See note following RCW 18.185.010.

18.185.050 License cards, certificates—Advertising—Notice of changes. (1) The director shall issue a bail bond agent license card to each licensed bail bond agent. A bail bond agent shall carry the license card whenever he or she is performing the duties of a bail bond agent and shall exhibit the card upon request.

(2) The director shall issue a license certificate to each licensed bail bond agency.

(a) Within seventy-two hours after receipt of the license certificate, the licensee shall post and display the certificate in a conspicuous place in the principal office of the licensee within the state.

(b) It is unlawful for any person holding a license certificate to knowingly and willfully post the license certificate upon premises other than those described in the license certificate or to materially alter a license certificate.

(c) Every advertisement by a licensee that solicits or advertises business shall contain the name of the licensee, the address of record, and the license number as they appear in the records of the director.

(d) The licensee shall notify the director within thirty days of any change in the licensee's officers or directors or any material change in the information furnished or required to be furnished to the director. [1993 c 260 § 6.]

18.185.055 License suspension—Nonpayment or default on educational loan or scholarship. The director shall suspend the license of any person who has been certified by a lending agency and reported to the director for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. Prior to the suspension, the agency must provide the person an opportunity for a brief adjudicative proceeding under RCW 34.05.485 through 34.05.494 and issue a finding of nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship. The person's license shall not be reissued until the person provides the director a written release issued by the lending agency stating that the person is making payments on the loan in accordance with a repayment agreement approved by the lending agency. If the person has continued to meet all other requirements for licensure during the suspension, reinstatement shall be automatic upon receipt of the notice and payment of any reinstatement fee the director may impose. [1996 c 293 § 26.]

Additional notes found at www.leg.wa.gov

18.185.056 License suspension—Electronic benefit cards. The director shall immediately suspend any license issued under this chapter if the director receives information that the license holder has not complied with RCW 74.08.580(2). If the license holder has otherwise remained eligible to be licensed, the director may reinstate the suspended license when the holder has complied with RCW 74.08.580(2). [2011 1st sp.s. c 42 § 18.]

Findings—Intent—Effective date—2011 1st sp.s. c 42: See notes following RCW 74.08A.260.

Finding—2011 1st sp.s. c 42: See note following RCW 74.04.004.

18.185.057 License suspension—Noncompliance with support order—Reissuance. The director shall immediately suspend any license issued under this chapter if the holder has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a *residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the person is in compliance with the order. [1997 c 58 § 840.]

***Reviser's note:** 1997 c 58 § 886 requiring a court to order certification of noncompliance with residential provisions of a court-ordered parenting plan was vetoed. Provisions ordering the department of social and health services to certify a responsible parent based on a court order to certify for non-compliance with residential provisions of a parenting plan were vetoed. See RCW 74.20A.320.

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

Additional notes found at www.leg.wa.gov

18.185.060 Prelicensing training and continuing education requirements. (1) The director shall adopt rules establishing prelicense training and testing requirements for bail bond agents, which shall include no less than four hours of classes. The director may establish, by rule, continuing education requirements for bail bond agents.

(2) The director or the director's designee, with the advice of law enforcement agencies and associations, the criminal justice training commission, prosecutors' associations, or such other entities as may be appropriate, shall consult with representatives of the bail bond industry and associations before adopting or amending the prelicensing training or continuing education requirements of this section.

(3) The director may appoint an advisory committee consisting of representatives from the bail bond industry and a consumer to assist in the development of rules to implement and administer this chapter. [2008 c 105 § 2; 1993 c 260 § 7.]

18.185.070 Bond. (1) No bail bond agency license may be issued under the provisions of this chapter unless the qualified agent files with the director a bond, executed by a surety company authorized to do business in this state, in the sum of ten thousand dollars conditioned to recover against the agency and its servants, officers, agents, and employees by reason of its violation of the provisions of RCW 18.185.100. The bond shall be made payable to the state of Washington,

and anyone so injured by the agency or its servants, officers, agents, or employees may bring suit upon the bond in any county in which jurisdiction over the licensee may be obtained. The suit must be brought not later than two years after the failure to return property in accordance with RCW 18.185.100. If valid claims against the bond exceed the amount of the bond or deposit, each claimant shall be entitled only to a pro rata amount, based on the amount of the claim as it is valid against the bond, without regard to the date of filing of any claim or action.

(2) Every licensed bail bond agency must at all times maintain on file with the director the bond required by this section in full force and effect. Upon failure by a licensee to do so, the director shall suspend the licensee's license and shall not reinstate the license until this requirement is met.

(3) In lieu of posting a bond, a qualified agent may deposit in an interest-bearing account, ten thousand dollars.

(4) The director may waive the bond requirements of this section, in his or her discretion, pursuant to adopted rules. [1993 c 260 § 8.]

18.185.080 Relation of this chapter to local regulation, taxation. (1) The provisions of this chapter relating to the licensing for regulatory purposes of bail bond agents and bail bond agencies are exclusive. No governmental subdivision of this state may enact any laws or rules licensing for regulatory purposes such persons, except as provided in subsections (2) and (3) of this section.

(2) This section shall not be construed to prevent a political subdivision of this state from levying a business fee, business and occupation tax, or other tax upon bail bond agencies if such fees or taxes are levied by the political subdivision on other types of businesses within its boundaries.

(3) This section shall not be construed to prevent this state or a political subdivision of this state from licensing for regulatory purposes bail bond agencies with respect to activities that are not regulated under this chapter. [1993 c 260 § 9.]

18.185.090 Notice concerning agent's status—Forced entry—Discharge of firearm. (1) A bail bond agency shall notify the director within thirty days after the death or termination of employment of any employee who is a licensed bail bond agent.

(2) A bail bond agency shall notify the director within seventy-two hours upon receipt of information affecting a licensed bail bond agent's continuing eligibility to hold a license under the provisions of this chapter.

(3) A bail bond agent or bail bond recovery agent shall notify the director within seventy-two hours upon receipt of information affecting the bail bond recovery agent's continuing eligibility to hold a bail bond recovery agent's license under the provisions of this chapter.

(4) A bail bond recovery agent shall notify the director within ten business days following a forced entry for the purpose of apprehending a fugitive criminal defendant, whether planned or unplanned. The notification under this subsection must include information required by rule of the director.

(5) A bail bond recovery agent shall notify the local law enforcement agency whenever the bail bond recovery agent discharges his or her firearm while on duty, other than on a

supervised firearms range. The notification must be made within ten business days of the date the firearm is discharged. [2008 c 105 § 3; 2004 c 186 § 7; 1993 c 260 § 10.]

Legislative recognition—2004 c 186: See note following RCW 18.185.010.

18.185.100 Records—Finances—Disposition of security. (1) Every qualified agent shall keep adequate records for three years of all collateral and security received, all trust accounts required by this section, and all bail bond transactions handled by the bail bond agency, as specified by rule. The records shall be open to inspection without notice by the director or authorized representatives of the director.

(2) Every qualified agent who receives collateral or security is a fiduciary of the property and shall keep adequate records for three years of the receipt, safekeeping, and disposition of the collateral or security. Every qualified agent shall maintain a trust account in a federally insured financial institution located in this state. All moneys, including cash, checks, money orders, wire transfers, and credit card sales drafts, received as collateral or security or otherwise held for a bail bond agency's client shall be deposited in the trust account not later than the third banking day following receipt of the funds or money. A qualified agent shall not in any way encumber the corpus of the trust account or commingle any other moneys with moneys properly maintained in the trust account. Each qualified agent required to maintain a trust account shall report annually under oath to the director the account number and balance of the trust account, and the name and address of the institution that holds the trust account, and shall report to the director within ten business days whenever the trust account is changed or relocated or a new trust account is opened.

(3) Whenever a bail bond is exonerated by the court, the qualified agent shall, within five business days after written notification of exoneration, return all collateral or security to the person entitled thereto.

(4) Records of contracts for fugitive apprehension must be retained by the bail bond agent and by the bail bond recovery agent for a period of three years. [2004 c 186 § 8; 1996 c 242 § 3; 1993 c 260 § 11.]

Legislative recognition—2004 c 186: See note following RCW 18.185.010.

18.185.110 Unprofessional conduct. In addition to the unprofessional conduct described in RCW 18.235.130, the following conduct, acts, or conditions constitute unprofessional conduct:

(1) Violating any of the provisions of this chapter or the rules adopted under this chapter;

(2) Failing to meet the qualifications set forth in RCW 18.185.020, 18.185.030, and 18.185.250;

(3) Knowingly committing, or being a party to, any material fraud, misrepresentation, concealment, conspiracy, collusion, trick, scheme, or device whereby any other person lawfully relies upon the word, representation, or conduct of the licensee. However, this subsection (3) does not prevent a bail bond recovery agent from using any pretext to locate or apprehend a fugitive criminal defendant or gain any information regarding the fugitive;

(4) Assigning or transferring any license issued pursuant to the provisions of this chapter, except as provided in RCW 18.185.030 or 18.185.250;

(5) Conversion of any money or contract, deed, note, mortgage, or other evidence of title, to his or her own use or to the use of his or her principal or of any other person, when delivered to him or her in trust or on condition, in violation of the trust or before the happening of the condition; and failure to return any money or contract, deed, note, mortgage, or other evidence of title within thirty days after the owner is entitled to possession, and makes demand for possession, shall be prima facie evidence of conversion;

(6) Failing to keep records, maintain a trust account, or return collateral or security, as required by RCW 18.185.100;

(7) Any conduct in a bail bond transaction which demonstrates bad faith, dishonesty, or untrustworthiness;

(8) Violation of an order to cease and desist that is issued by the director under chapter 18.235 RCW;

(9) Wearing, displaying, holding, or using badges not approved by the department;

(10) Making any statement that would reasonably cause another person to believe that the bail bond recovery agent is a sworn peace officer;

(11) Failing to carry a copy of the contract or to present a copy of the contract as required under RCW 18.185.270(1);

(12) Using the services of an unlicensed bail bond recovery agent or using the services of a bail bond recovery agent without issuing the proper contract;

(13) Misrepresenting or knowingly making a material misstatement or omission in the application for a license;

(14) Using the services of a person performing the functions of a bail bond recovery agent who has not been licensed by the department as required by this chapter;

(15) Performing the functions of a bail bond recovery agent without being both (a) licensed under this chapter or supervised by a licensed bail bond recovery agent under RCW 18.185.290; and (b) under contract with a bail bond agent;

(16) Performing the functions of a bail bond recovery agent without exercising due care to protect the safety of persons other than the defendant and the property of persons other than the defendant; or

(17) Using a dog in the apprehension of a fugitive criminal defendant. [2008 c 105 § 4; 2007 c 256 § 2; 2004 c 186 § 9; 2002 c 86 § 251; 1993 c 260 § 12.]

Legislative recognition—2004 c 186: See note following RCW 18.185.010.

Additional notes found at www.leg.wa.gov

18.185.120 Director's powers. In addition to those powers set forth in RCW 18.235.030, the director or the director's designee has the authority to order restitution to the person harmed by the licensee. [2007 c 256 § 3; 2002 c 86 § 252; 1993 c 260 § 13.]

Additional notes found at www.leg.wa.gov

18.185.130 Complaints. Any person may submit a written complaint to the department charging a license holder or applicant with unprofessional conduct and specifying the grounds for the charge. If the director determines that the complaint merits investigation, or if the director has reason to

believe, without a formal complaint, that a license holder or applicant may have engaged in unprofessional conduct, the director shall investigate to determine if there has been unprofessional conduct. A person who files a complaint under this section in good faith is immune from suit in any civil action related to the filing or contents of the complaint. [1993 c 260 § 14.]

18.185.140 Statement of charges—Notice. When a statement of charges is issued against a license holder or applicant under RCW 18.235.050, notice of this action must be given to the owner or qualified agent of the employing bail bond agency. [2002 c 86 § 253; 1993 c 260 § 15.]

Additional notes found at www.leg.wa.gov

18.185.170 Unlicensed activity—Criminal penalties. (1) Any person who performs the functions and duties of a bail bond agent in this state without being licensed in accordance with the provisions of this chapter, or any person presenting or attempting to use as his or her own the license of another, or any person who gives false or forged evidence of any kind to the director in obtaining a license, or any person who falsely impersonates any other licensee, or any person who attempts to use an expired or revoked license, or any person who violates any of the provisions of this chapter is guilty of a gross misdemeanor.

(2) A person is guilty of a gross misdemeanor if the person owns or operates a bail bond agency in this state without first obtaining a bail bond agency license.

(3) The owner or qualified agent of a bail bond agency is guilty of a gross misdemeanor if the owner or qualified agent employs any person to perform the duties of a bail bond agent without the employee having in the employee's possession a permanent bail bond agent license issued by the department.

(4) After December 31, 2005, a person is guilty of a gross misdemeanor if the person:

(a) Performs the functions of a bail bond recovery agent without first obtaining a license from the department and entering into a contract with a bail bond agent as required by this chapter; or, in the case of a bail bond recovery agent from another state, the person performs the functions of a bail bond recovery agent without operating under the direct supervision of a licensed bail bond recovery agent as required by this chapter; or

(b) Conducts a planned forced entry without first complying with the requirements of this chapter. [2004 c 186 § 13; 2002 c 86 § 254; 1993 c 260 § 18.]

Legislative recognition—2004 c 186: See note following RCW 18.185.010.

Additional notes found at www.leg.wa.gov

18.185.200 Application of Administrative Procedure Act. The director, in implementing and administering the provisions of this chapter, shall act in accordance with the Administrative Procedure Act, chapter 34.05 RCW. [1993 c 260 § 21.]

18.185.210 Application of Consumer Protection Act. Failure to fulfill the fiduciary duties and other duties as prescribed in RCW 18.185.100 is not reasonable in relation to the development and preservation of business. A violation of

RCW 18.185.100 is an unfair or deceptive act in trade or commerce for the purpose of applying the Consumer Protection Act, chapter 19.86 RCW. [1993 c 260 § 22.]

18.185.220 Branch office—Qualified bail bond agent as manager. A branch office may not operate under a business name other than the name of the principal bail bond agency and must have a qualified bail bond agent as manager of the office. The qualified agent shall comply with the provisions of RCW 18.185.100. [1996 c 242 § 2.]

18.185.230 License required for branch office. If a licensee maintains a branch office, the licensee shall not operate that branch office until a branch office license has been received from the director. A bail bond agency may apply to the director for authority to establish one or more branch offices under the same name as the main office upon the payment of a fee as prescribed by the director by rule. The director shall issue a separate license for each branch office showing the location of each branch which shall be prominently displayed in the office for which it is issued. A corporation, partnership, or sole proprietorship shall not establish more than one principal office within this state. [1996 c 242 § 4.]

18.185.240 Uniform regulation of business and professions act. The uniform regulation of business and professions act, chapter 18.235 RCW, governs unlicensed practice, the issuance and denial of licenses, and the discipline of licensees under this chapter. [2002 c 86 § 255.]

Additional notes found at www.leg.wa.gov

18.185.250 Bail bond recovery agent license—Requirements. An applicant must meet the following requirements to obtain a bail bond recovery agent license:

(1) Submit a fully completed application that includes proper identification on a form prescribed by the director;

(2) Pass an examination determined by the director to measure his or her knowledge and competence in the bail recovery business;

(3) Be at least twenty-one years old;

(4) Be a citizen or legal resident alien of the United States;

(5) Not have been convicted of a crime in any jurisdiction, if the director determines that the applicant's particular crime directly relates to a capacity to perform the duties of a bail bond recovery agent, and that the license should be withheld to protect the citizens of Washington state. The director shall make the director's determination to withhold a license because of previous convictions notwithstanding the restoration of employment rights act, chapter 9.96A RCW;

(6) Not have had certification as a peace officer revoked or denied under chapter 43.101 RCW, unless certification has subsequently been reinstated under RCW 43.101.115;

(7) Submit a receipt showing payment for a background check through the Washington state patrol and the federal bureau of investigation;

(8) Have a current firearms certificate issued by the commission if carrying a firearm in the performance of his or her duties as a bail bond recovery agent;

(9)(a) Have a current license or equivalent permit to carry a concealed pistol;

(b) A resident alien must provide a copy of his or her alien firearm license; and

(10)(a) Pay the required nonrefundable fee for each application for a bail bond recovery agent license;

(b) A bail bond agent or qualified agent who wishes to perform the duties of a bail bond recovery agent must first obtain a bail bond recovery agent endorsement to his or her bail bond agent or agency license in order to act as a bail bond recovery agent, and pay the required nonrefundable fee for each application for a bail bond recovery agent endorsement. [2008 c 105 § 5; 2004 c 186 § 3.]

Legislative recognition—2004 c 186: See note following RCW 18.185.010.

18.185.260 Bail bond recovery agents—Preliminary training/testing requirements—Continuing education requirements—Rules. (1) The director shall adopt rules establishing preliminary training and testing requirements for bail bond recovery agents, which shall include no less than thirty-two hours of field operations classes. The director may establish, by rule, continuing education and recertification requirements for bail bond recovery agents.

(2) The director or the director's designee, with the advice of law enforcement agencies and associations, the criminal justice training commission, prosecutors' associations, or such other entities as may be appropriate, shall consult with representatives of the bail bond industry and associations before adopting or amending the preliminary training, testing, and continuing education and recertification requirements of this section and shall establish minimum exam standards necessary for a bail bond recovery agent to qualify for licensure or endorsement.

(3) The standards must include, but are not limited to, the following:

(a) A minimum level of education or experience appropriate for performing the duties of a bail bond recovery agent;

(b) A minimum level of knowledge in relevant areas of criminal and civil law;

(c) A minimum level of knowledge regarding the appropriate use of force and different degrees of the use of force; and

(d) Adequate training of the use of firearms from the criminal justice training commission, from an instructor who has been trained or certified by the criminal justice training commission, or from another entity approved by the director.

(4) The legislature does not intend, and nothing in this chapter shall be construed to restrict or limit in any way the powers of bail bond agents as recognized in and derived from the United States supreme court case of *Taylor v. Taintor*, 16 Wall. 366 (1872). [2008 c 105 § 6; 2004 c 186 § 5.]

Legislative recognition—2004 c 186: See note following RCW 18.185.010.

18.185.270 Bail bond agent/bail bond recovery agent—Each fugitive an individual contract—Format of contract. (1) Each fugitive criminal defendant to be recovered will be treated as an individual contract between the bail bond agent and the bail bond recovery agent. A bail bond agent shall provide a bail bond recovery agent a copy of each

individual contract. A bail bond recovery agent must carry, in addition to the license issued by the department, a copy of the contract and, if requested, must present a copy of the contract and the license to the fugitive criminal defendant, the owner or manager of the property in which the agent entered in order to locate or apprehend the fugitive, other residents, if any, of the residence in which the agent entered in order to locate or apprehend the fugitive, and to the local law enforcement agency or officer. If presenting a copy of the contract or the license at the time of the request would unduly interfere with the location or apprehension of the fugitive, the agent shall present the copy of the contract or the license within a reasonable period of time after the exigent circumstances expire.

(2) The director, or the director's designee, with the advice of the bail bond industry and associations, law enforcement agencies and associations, and prosecutors' associations shall develop a format for the contract. At a minimum, the contract must include the following:

(a) The name, address, phone number, and license number of the bail bond agency or bail bond agent contracting with the bail bond recovery agent;

(b) The name and license number of the bail bond recovery agent; and

(c) The name, last known address, and phone number of the fugitive. [2004 c 186 § 6.]

Legislative recognition—2004 c 186: See note following RCW 18.185.010.

18.185.280 Bail bond recovery agent, generally. (1) A person may not perform the functions of a bail bond recovery agent unless the person is licensed by the department under this chapter.

(2) A bail bond agent may contract with a person to perform the functions of a bail bond recovery agent. Before contracting with the bail bond recovery agent, the bail bond agent must check the license issued by the department under this chapter. The requirements established by the department under this chapter do not prevent the bail bond agent from imposing additional requirements that the bail bond agent considers appropriate.

(3) A contract entered into under this chapter is authority for the person to perform the functions of a bail bond recovery agent as specifically authorized by the contract and in accordance with applicable law. A contract entered into by a bail bond agent with a bail bond recovery agent is not transferable by the bail bond recovery agent to another bail bond recovery agent.

(4) Whenever a person licensed by the department as a bail bond recovery agent is engaged in the performance of the person's duties as a bail bond recovery agent, the person must carry a copy of the license.

(5) A license or endorsement issued by the department under this chapter is valid from the date the license or endorsement is issued until its expiration date unless it is suspended or revoked by the department prior to its expiration date.

(6) Nothing in this chapter is meant to prevent a bail bond agent from contacting a fugitive criminal defendant for the purpose of requesting the surrender of the fugitive, or

from accepting the voluntary surrender of the fugitive. [2008 c 105 § 7; 2004 c 186 § 10.]

Legislative recognition—2004 c 186: See note following RCW 18.185.010.

18.185.290 Out-of-state bail bond recovery agent. A bail bond recovery agent from another state who is not licensed under this chapter may not perform the functions of a bail bond recovery agent in this state unless the agent is working under the direct supervision of a licensed bail bond recovery agent. [2004 c 186 § 11.]

Legislative recognition—2004 c 186: See note following RCW 18.185.010.

18.185.300 Bail bond recovery agent—Planned forced entry—Requirements. (1) Before a bail bond recovery agent may apprehend a person subject to a bail bond in a planned forced entry, the bail bond recovery agent must:

(a) Have reasonable cause to believe that the defendant is inside the dwelling, building, or other structure where the planned forced entry is expected to occur; and

(b) Notify an appropriate law enforcement agency in the local jurisdiction in which the apprehension is expected to occur. Notification must include, at a minimum: The name of the defendant; the address, or the approximate location if the address is undeterminable, of the dwelling, building, or other structure where the planned forced entry is expected to occur; the name of the bail bond recovery agent; the name of the contracting bail bond agent; and the alleged offense or conduct the defendant committed that resulted in the issuance of a bail bond.

(2) During the actual planned forced entry, a bail bond recovery agent:

(a) Shall wear a shirt, vest, or other garment with the words "BAIL BOND RECOVERY AGENT," "BAIL ENFORCEMENT," or "BAIL ENFORCEMENT AGENT" displayed in at least two-inch-high reflective print letters across the front and back of the garment and in a contrasting color to that of the garment; and

(b) May display a badge approved by the department with the words "BAIL BOND RECOVERY AGENT," "BAIL ENFORCEMENT," or "BAIL ENFORCEMENT AGENT" prominently displayed.

(3) Any law enforcement officer who assists in or is in attendance during a planned forced entry is immune from civil action for damages arising out of actions taken by the bail bond recovery agent or agents conducting the forced entry. [2008 c 105 § 8; 2004 c 186 § 12.]

Legislative recognition—2004 c 186: See note following RCW 18.185.010.

18.185.310 Military training or experience. An applicant with military training or experience satisfies the training or experience requirements of this chapter unless the director determines that the military training or experience is not substantially equivalent to the standards of this state. [2011 c 351 § 12.]

18.185.900 Severability—1993 c 260. If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of the chapter or the

application of the provision to other persons or circumstances is not affected. [1993 c 260 § 23.]

18.185.901 Effective date—1993 c 260. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect July 1, 1993. [1993 c 260 § 25.]

Additional notes found at www.leg.wa.gov

Chapter 308-19 WAC

BAIL BOND AGENCIES AND BAIL BOND AGENTS

WAC

PART A GENERAL

308-19-010 Promulgation—Authority.
 308-19-020 Organization.
 308-19-030 Definitions.

PART B LICENSING APPLICATION AND FEES

308-19-100 Applying for a bail bond agent license.
 308-19-101 Applying for a bail bond recovery agent license or endorsement to a bail bond agent license.
 308-19-102 Submitting fingerprint cards for a criminal history background check.
 308-19-105 Applying for a bail bond agency license.
 308-19-107 Responsibilities of the qualified agent.
 308-19-110 Applying for a bail bond agency branch office license.
 308-19-120 Bail bond recovery agent, bail bond agency, branch office and agent license applications—Conditions.
 308-19-130 Bail bond recovery agent, bail bond agency, branch office and bail bond agent fees.
 308-19-140 Renewal and expiration of licenses and endorsements.
 308-19-150 Cancellation of employment.
 308-19-160 Inactive licenses.

PART C OFFICE REQUIREMENTS AND LICENSEE'S RESPONSIBILITIES

308-19-200 Location of license documents.
 308-19-210 Change of address.
 308-19-220 Responsibilities as a licensee in addition to the other obligations and responsibilities outlined in chapter 18.185 RCW and chapter 308-19 WAC.
 308-19-230 Criminal complaint or action.
 308-19-240 Bail bond agency and branch office required records.
 308-19-250 Bail bond agency audits and inspections.

PART D PRELICENSE TRAINING AND EXAMINATION REQUIREMENTS

308-19-300 Prelicense training and examination requirements for bail bond agents, bail bond agency, and qualified bail bond agent license applicants.
 308-19-302 Continuing education for bail bond agents.
 308-19-305 Minimum prelicense training requirements and exceptions for bail bond recovery agents.
 308-19-310 Prelicense examination requirements for bail bond recovery agents.
 308-19-315 Study guide for the prelicense bail bond recovery agent examination.
 308-19-320 Minimum education requirements for bail bond recovery agents.
 308-19-330 Continued education and recertification for bail recovery agents.

PART F BRIEF ADJUDICATIVE PROCEEDINGS

308-19-400 Brief adjudicative proceeding.
 308-19-410 Records used in a brief adjudicative proceeding.
 308-19-420 Conducting a brief adjudicative proceeding.
 308-19-430 False or misleading advertising.
 308-19-440 Standards of professional conduct.
 308-19-445 Contract requirements between the bail bond agent and the bail bond recovery agent.
 308-19-450 Planned forced entry and forced entry reporting—Procedure requirements.
 308-19-455 Bail bond recovery agent badge.
 308-19-460 Firearms certification procedure through criminal justice training commission.

PART A GENERAL

WAC 308-19-010 Promulgation—Authority. The director of the department of licensing, state of Washington, pursuant to the authority vested in the director by chapter 18.185 RCW, does hereby promulgate the following rules and regulations relating to the licensing of bail bond agencies and bail bond agents and bail bond recovery agents.

[Statutory Authority: Chapter 18.185 RCW. 05-08-027, § 308-19-010, filed 3/30/05, effective 4/30/05; 00-01-061, § 308-19-010, filed 12/13/99, effective 1/13/00. Statutory Authority: 1993 c 260 § 13. 93-21-053, § 308-19-010, filed 10/18/93, effective 11/18/93.]

WAC 308-19-020 Organization. The department of licensing administers the Washington bail bond license law, chapter 18.185 RCW. Submissions and requests for information regarding bail bond agency licenses and bail bond agent and bail bond recovery agent licenses may be sent in writing to the Bail Bond Program, Business and Professions Division, Department of Licensing, P.O. Box 9649, Olympia, Washington 98507-9649.

[Statutory Authority: Chapter 18.185 RCW. 05-08-027, § 308-19-020, filed 3/30/05, effective 4/30/05; 00-01-061, § 308-19-020, filed 12/13/99, effective 1/13/00. Statutory Authority: 1993 c 260 § 13. 93-21-053, § 308-19-020, filed 10/18/93, effective 11/18/93.]

WAC 308-19-030 Definitions. (1) Words and terms used in these rules shall have the same meaning as each has under chapter 18.185 RCW unless otherwise clearly provided in these rules, or the context in which they are used in these rules clearly indicates that they be given some other meaning. Also see RCW 18.185.010 for other definitions.

(2) "Principal partner" means the partner who is the qualified agent of a bail bond agency and who exercises operational control over the agency.

(3) "Bail bond" means the contract between the defendant, the surety and/or the court to insure the appearance of the accused before the court(s) at such time as the court may direct. These bonds may require annual renewal.

(4) "Property bond agent" means a surety that posts security in the form of personal or real estate for compensation to assure the appearance of a defendant.

(5) "Surety" as it relates to bail bonds, means the depositor/owner of cash if a cash bail bond, the property owner(s) if a property bond, the insurance company if a corporate surety bond, that guarantees performance of the bail bond contract for compensation.

(6) "Principal/defendant" means the accused, for whom a bail bond may be obtained.

(7) "Exonerate" means the discharging of the bail bond by the court.

(8) "Indemnitor" means the person placing security with an agency/agent, to secure the agency against loss for the release of a defendant(s) on a bail bond.

(9) "Clients" means defendants and indemnitors.

(10) "Affidavit" means a written statement made under oath as provided in RCW 10.19.160.

(11) "Indemnity agreement" means the contract signed by the indemnitor that states the obligations the indemnitor(s) is/are assuming.

(12) "Collateral receipt" means an accurate description of the security given to an indemnitor by the receiving agency's agent, in its fiduciary capacity, listing all collateral given as security for a bail bond and held by the agency/agent until the bail bond is exonerated by the court or a forfeiture occurs. The receipt shall name the owner of the collateral, the defendant, and the bond number, and specify the terms for redemption of the collateral including any fees charged for storage.

(13) "Surrender form" means the form used to return to custody a defendant for violation of bond conditions, and the indemnitor's withdrawal from a bail bond with an affidavit in accordance with RCW 10.19.160, or a letter of forfeiture from a court in accordance to the bail contract.

(14) "Letter of forfeiture" means a notice in varied forms, sent to a bail bond agency/branch office, advising the agency/branch office that a defendant who has secured a bail bond with that agency has failed to appear on a given date in a given court in accordance with RCW 10.19.090. The court has made a demand for the surrender of the defendant, or payment of the face amount of the bond by a given date.

(15) "Letter of demand" means any form of notice to the indemnitor/defendant that the collateral placed in trust has come under jeopardy because of a failure to appear or violation of bail.

(16) "Corporate surety bail bonds" means a bail bond contract that is guaranteed by a domestic, foreign or alien insurance company which has been qualified to transact surety insurance business in Washington state by the insurance commissioner.

(17) "Build-up fund" (also known as "BUF fund" or "escrow fund" or "trust fund") means that percentage of money obtained from collected premiums paid by the agent to the corporate surety company for the purpose of indemnifying the corporate surety from loss caused by the agent.

(18) "Endorsement" means that a bail bond agent or bail bond qualified agent licensee has met all licensing requirements for a bail bond recovery agent license and is authorized to perform the duties of both a bail bond agent and a bail bond recovery agent. Such licenses shall be issued by the department and will clearly state the dual purpose of the license.

(19) "Forced entry" means physical entry into a dwelling without the occupant's knowledge or consent for the purpose of apprehending a defendant subject to a bond.

(20) "Credentialed trainer" means an individual who has been certified by a state or national association to provide training to industry members based upon formal training and industry knowledge.

[Statutory Authority: Chapter 18.185 RCW. 08-20-036, § 308-19-030, filed 9/23/08, effective 11/1/08; 05-08-027, § 308-19-030, filed 3/30/05, effective 4/30/05; 00-01-061, § 308-19-030, filed 12/13/99, effective 1/13/00. Statu-

tory Authority: 1993 c 260 § 13. 93-21-053, § 308-19-030, filed 10/18/93, effective 11/18/93.]

PART B LICENSING APPLICATION AND FEES

WAC 308-19-100 Applying for a bail bond agent license. After the applicant meets the requirements of RCW 18.185.020 he/she shall:

(1) Complete an application for a license on a form provided by the department of licensing.

(2) Inform the department if he/she has an insurance surety license and with what company he/she is affiliated.

(3) Pay a fee or fees as listed in WAC 308-19-130.

(4) Pass a written exam administered by the department or submit proof of twelve hours of prelicense training as provided in Part D, WAC 308-19-300. The training must have occurred within the previous six months or less.

[Statutory Authority: Chapter 18.185 RCW. 08-20-036, § 308-19-100, filed 9/23/08, effective 11/1/08; 05-08-027, § 308-19-100, filed 3/30/05, effective 4/30/05; 00-01-061, § 308-19-100, filed 12/13/99, effective 1/13/00. Statutory Authority: 1993 c 260 § 13. 93-21-053, § 308-19-100, filed 10/18/93, effective 11/18/93.]

WAC 308-19-101 Applying for a bail bond recovery agent license or endorsement to a bail bond agent license. After the applicant meets the requirements of RCW 18.185.020 (1), (2) and (3), and is in good standing with the department he or she shall:

(1) Complete an application for a license or an endorsement on a form provided by the department;

(2) Submit a completed fingerprint card;

(3) Attest on the application form to having earned a high school diploma or GED or submit proof of three years experience in the bail industry;

(4) Submit a copy of a current and valid concealed pistol license.

(5) If applicant is retired or separated from a local or state police department, or a branch of the armed forces trained to carry out the duties of a peace officer within the last six years, submit proof to the department describing length of service, duties and date of retirement or separation or; submit a certificate or transcript showing the applicant has completed thirty-two hours of field operations classes as stated in WAC 308-19-305;

(6) Pay a fee or fees as listed in WAC 308-19-130;

(7) Pass a written exam administered by the department.

[Statutory Authority: Chapter 18.185 RCW. 08-20-036, § 308-19-101, filed 9/23/08, effective 11/1/08; 05-08-027, § 308-19-101, filed 3/30/05, effective 4/30/05.]

WAC 308-19-102 Submitting fingerprint cards for a criminal history background check. Every applicant for a bail bond recovery agent license or endorsement shall have a fingerprint criminal history background check conducted.

Applicants shall be fingerprinted by a law enforcement agency on a fingerprint card provided by the department and pay any fees required by the law enforcement agency providing the fingerprinting service.

[Statutory Authority: Chapter 18.185 RCW. 08-20-036, § 308-19-102, filed 9/23/08, effective 11/1/08; 05-08-027, § 308-19-102, filed 3/30/05, effective 4/30/05.]

WAC 308-19-105 Applying for a bail bond agency license. To qualify for a bail bond agency license the applicant shall:

Complete the requirements of the bail bond agent license and;

(1) Submit to the department proof of work experience as required under RCW 18.185.030 (1)(b).

(a) Work related experience shall include: Bail bonds, insurance, trust accounts, receiving collateral in a fiduciary capacity, and forms of underwriting.

(b) Applicants who do not have the required work experience shall train and pass an examination as stated under Part D, WAC 308-19-300.

(2) Complete an application for an agency license on a form provided by the department of licensing.

(3) Pay a fee or fees as required by WAC 308-19-130.

(4) Obtain a bond for the main office as required by RCW 18.185.070.

(5) The applicant shall disclose the surety(s) name, address, the attorney in fact, and whose name the build-up fund is in.

If the applicant changes their corporate surety, the applicant shall immediately advise the department.

(6) If the applicant provides security in the form of real property, the applicant shall advise the department of the names of the court(s) that have given approval for the placing of property bonds.

(7) Sole proprietorships shall act as the qualified agent of the agency without the payment of additional license fees.

(8) Partnerships or limited partnership applicants shall each apply, qualify and furnish their addresses to the director.

When a license is issued to a partnership, the principal partner shall act as the qualified agent of the agency without the payment of additional license fees.

(9) Applicants representing a corporation shall furnish a copy of the articles of incorporation, and a list of officers and departments and their addresses to the director.

When an agency license is issued to a corporation, the manager, officer, or chief operating officer shall act as the qualified agent of the agency without the payment of additional license fees.

(10) If the applicant represents a foreign corporation, he/she shall furnish a copy of its articles of incorporation, and a list of its officers and departments and their addresses to the department.

[Statutory Authority: Chapter 18.185 RCW. 05-08-027, § 308-19-105, filed 3/30/05, effective 4/30/05; 00-01-061, § 308-19-105, filed 12/13/99, effective 1/13/00.]

WAC 308-19-107 Responsibilities of the qualified agent. The qualified agent shall be responsible for all transactions, recordkeeping, and the employees of each office he or she is licensed as the qualified agent.

Under 18.185.010(5), a qualified agent is "an owner, sole proprietor, partner, manager, officer, or chief operating officer of a corporation who meets the requirements set forth in this chapter for obtaining a bail bond agency license." The qualified agent essentially serves as "manager" of the bail bond agency, and is responsible for all bail bond transactions conducted by the bail bond agents employed by the agency. See RCW 18.185.100 (qualified agent shall keep required

(9/23/08)

records and ensure safekeeping of collateral or security); RCW 18.185.220 (every branch office must have a qualified agent serving as manager);

Each branch office must be managed by a qualified agent. A qualified agent may serve as a qualified agent of multiple offices. Although the qualified agent remains ultimately responsible for bail bond transactions, a qualified agent is permitted to delegate managerial functions to licensed bail bond agents. However, a qualified agent may not delegate managerial or supervisory functions to unlicensed staff because such functions necessarily involve participation in the sale or issuance of bail bonds.

Allowing unlicensed staff to participate in the sale or issuance of bail bonds could lead to charges of aiding or abetting unlicensed activity in violation of RCW 18.185.110(10) and 18.235.130(9).

Any agency going out of business in the state of Washington shall continue to be obligated on all outstanding bonds until the director receives notification from the jurisdiction in which the agency/branch offices are located that all bonds have been exonerated and the department of licensing has received no complaints from indemnitor about the return of collateral. The director may require an audit of the closing agency at any time upon notification of the closing of the agency.

[Statutory Authority: Chapter 18.185 RCW. 05-08-027, § 308-19-107, filed 3/30/05, effective 4/30/05; 00-01-061, § 308-19-107, filed 12/13/99, effective 1/13/00.]

WAC 308-19-110 Applying for a bail bond agency branch office license. A licensed bail bond agency may establish a branch office by meeting the following requirements.

(1) Each branch office shall have a licensed qualified agent.

(2) Complete an application form provided by the department of licensing.

(3) Pay the fee or fees as required under WAC 308-19-130.

[Statutory Authority: Chapter 18.185 RCW. 05-08-027, § 308-19-110, filed 3/30/05, effective 4/30/05; 00-01-061, § 308-19-110, filed 12/13/99, effective 1/13/00. Statutory Authority: 1993 c 260 § 13. 93-21-053, § 308-19-110, filed 10/18/93, effective 11/18/93.]

WAC 308-19-120 Bail bond recovery agent, bail bond agency, branch office and agent license applications—Conditions. Any person desiring to obtain a bail bond recovery agent, bail bond agency, bail bond branch office or bail bond agent license shall make application on a form prescribed by the director and pay a fee as prescribed by WAC 308-19-130.

[Statutory Authority: Chapter 18.185 RCW. 05-08-027, § 308-19-120, filed 3/30/05, effective 4/30/05. Statutory Authority: 1993 c 260 § 13. 93-21-053, § 308-19-120, filed 10/18/93, effective 11/18/93.]

WAC 308-19-130 Bail bond recovery agent, bail bond agency, branch office and bail bond agent fees. The following fees for a one-year period shall be charged by business and professions division of the department of licensing:

[Ch. 308-19 WAC—p. 3]

Title of Fee	Fee
Bail bond agency/branch office:	
Application	\$1,200.00
License renewal	1,150.00
Late renewal with penalty	1,200.00
Bail bond agent:	
Original license	500.00
License renewal	575.00
Late renewal with penalty	600.00
Change of qualified agent	250.00
Original endorsement to the bail bond agent license	100.00
Endorsement renewal	100.00
Endorsement renewal with penalty	150.00
Bail bond recovery agent license:	
Original license	450.00
	(includes background check fees)
License renewal	475.00
Late renewal with penalty	500.00
Examinations:	
Reexamination fee	25.00

[Statutory Authority: Chapter 18.185 RCW. 08-20-036, § 308-19-130, filed 9/23/08, effective 11/1/08; 06-21-082, § 308-19-130, filed 10/17/06, effective 11/17/06; 05-08-027, § 308-19-130, filed 3/30/05, effective 4/30/05. Statutory Authority: RCW 43.24.086 and chapter 18.185 RCW. 02-07-067, § 308-19-130, filed 3/18/02, effective 7/1/02. Statutory Authority: 1993 c 260 § 13. 93-21-053, § 308-19-130, filed 10/18/93, effective 11/18/93.]

WAC 308-19-140 Renewal and expiration of licenses and endorsements. (1) Licenses and endorsements issued to bail bond agents, bail bond agencies, branch offices, or bail bond recovery agents expire one year from the date of issue.

(2) Licenses and endorsements must be renewed each year on or before the date of expiration and a renewal fee as prescribed by the director in WAC 308-19-130 must be paid.

(3) If the application for a license or endorsement renewal is not received by the director on or before the renewal date, a penalty fee as prescribed by the director in WAC 308-19-130 shall be paid. Acceptance by the director of an application for renewal after the renewal date shall not be a waiver of the delinquency.

(4) A license or endorsement shall be canceled if an application for a renewal of that license or endorsement is not received by the director within one year from the date of expiration. A person may obtain a new license or endorsement by satisfying the procedures and qualifications for licensing, including the successful completion of any current examination and education requirements.

(5) No bail bond agent, or bail bond agency shall engage in the sale or issuance of bail bonds if their license has expired. No bail bond recovery agent shall perform the duties of a bail bond recovery agent if his/her license has expired.

(6) When the director receives verification that a bail bond agent or recovery agent license has expired or has been revoked or suspended, the director shall advise correction centers.

(7) By renewing the bail bond agent, bail bond recovery agent, or bail bond qualified agent license with the depart-

ment, the licensee is making declaration that they have met the requirements for annual continued education.

[Statutory Authority: Chapter 18.185 RCW. 08-20-036, § 308-19-140, filed 9/23/08, effective 11/1/08; 05-08-027, § 308-19-140, filed 3/30/05, effective 4/30/05; 04-01-021, § 308-19-140, filed 12/8/03, effective 1/12/04; 00-01-061, § 308-19-140, filed 12/13/99, effective 1/13/00. Statutory Authority: 1993 c 260 § 13. 93-21-053, § 308-19-140, filed 10/18/93, effective 11/18/93.]

WAC 308-19-150 Cancellation of employment. (1) A person licensed as a bail bond agent may perform duties and activities as licensed only under the direction and supervision of a licensed qualified agent and as a representative of a bail bond agency.

(2) Either the agency or agent may cancel this relationship. The agency's qualified agent must send a written notice of the cancellation to the department of licensing immediately and include the agent's license held by the agency. Notice of cancellation shall be provided by signature of the agency's qualified agent on the surrendered license. The cancellation date shall be the postmark date or date the license is hand delivered to the department. If the license held by the agency cannot be surrendered to the department because the license has been lost, the qualified agent shall complete and submit an affidavit of lost license on a form approved by the department explaining why the license has been lost and for how long the license has not been on display.

[Statutory Authority: Chapter 18.185 RCW. 05-08-027, § 308-19-150, filed 3/30/05, effective 4/30/05; 00-01-061, § 308-19-150, filed 12/13/99, effective 1/13/00. Statutory Authority: 1993 c 260 § 13. 93-21-053, § 308-19-150, filed 10/18/93, effective 11/18/93.]

WAC 308-19-160 Inactive licenses. (1) Any license issued under chapter 18.185 RCW, and not otherwise revoked or suspended shall be deemed "inactive" at any time it is delivered to the director. Until reissued, the holder of an inactive license shall be deemed to be unlicensed.

(2) An inactive license may be placed in an active status upon completion of an application as provided by the director and upon compliance with chapter 18.185 RCW.

(3) An inactive license may not be renewed. The inactive license will be canceled if not activated by the expiration date. To obtain a new license the person must satisfy the procedures and qualifications for initial licensing, including the successful completion of any examination and education requirements.

(4) The provisions of chapter 18.185 RCW relating to the denial, suspension, and revocation of a license shall be applicable to an inactive license as well as an active license, except that when proceedings to suspend or revoke an inactive license have been initiated, the license shall remain inactive until the proceedings have been completed.

[Statutory Authority: Chapter 18.185 RCW. 05-08-027, § 308-19-160, filed 3/30/05, effective 4/30/05; 00-01-061, § 308-19-160, filed 12/13/99, effective 1/13/00. Statutory Authority: 1993 c 260 § 13. 93-21-053, § 308-19-160, filed 10/18/93, effective 11/18/93.]

PART C
OFFICE REQUIREMENTS AND
LICENSEE'S RESPONSIBILITIES

WAC 308-19-200 Location of license documents.

Licenses and endorsements of all bail bond agency and bail bond agents shall be kept in the office located at the address appearing on the license.

[Statutory Authority: Chapter 18.185 RCW. 05-08-027, § 308-19-200, filed 3/30/05, effective 4/30/05; 00-01-061, § 308-19-200, filed 12/13/99, effective 1/13/00. Statutory Authority: 1993 c 260 § 13. 93-21-053, § 308-19-200, filed 10/18/93, effective 11/18/93.]

WAC 308-19-210 Change of address. The qualified agent of a bail bond agency shall notify the department of any change of location and mailing address of the agency office within ten working days by filing a completed change of address form approved or provided by the department.

[Statutory Authority: Chapter 18.185 RCW. 05-08-027, § 308-19-210, filed 3/30/05, effective 4/30/05; 00-01-061, § 308-19-210, filed 12/13/99, effective 1/13/00. Statutory Authority: 1993 c 260 § 13. 93-21-053, § 308-19-210, filed 10/18/93, effective 11/18/93.]

WAC 308-19-220 Responsibilities as a licensee in addition to the other obligations and responsibilities outlined in chapter 18.185 RCW and chapter 308-19 WAC. It is the responsibility of each and every licensee to obtain a copy of and be knowledgeable of and keep current with the rules implementing chapter 18.185 RCW.

[Statutory Authority: Chapter 18.185 RCW. 05-08-027, § 308-19-220, filed 3/30/05, effective 4/30/05; 00-01-061, § 308-19-220, filed 12/13/99, effective 1/13/00. Statutory Authority: 1993 c 260 § 13. 93-21-053, § 308-19-220, filed 10/18/93, effective 11/18/93.]

WAC 308-19-230 Criminal complaint or action. Every licensee shall notify in writing, within twenty days after service or knowledge thereof, the office of the bail bond program, business and professions division, department of licensing of any criminal complaint, information, indictment, or conviction (including a plea of guilty or nolo contendere) in which the licensee is named as a defendant.

[Statutory Authority: Chapter 18.185 RCW. 05-08-027, § 308-19-230, filed 3/30/05, effective 4/30/05; 00-01-061, § 308-19-230, filed 12/13/99, effective 1/13/00. Statutory Authority: 1993 c 260 § 13. 93-21-053, § 308-19-230, filed 10/18/93, effective 11/18/93.]

WAC 308-19-240 Bail bond agency and branch office required records. The following requirements and prohibitions apply to all records and documents required to be maintained by chapter 18.185 RCW, or in these rules:

(1) They shall be maintained in accordance with generally accepted accounting practices.

(2) No person shall make any false or misleading statement, or make false or misleading entry, or willfully fail to make any entry required to be maintained or made, in any such record or document.

(3) No person shall willfully fail to produce any such record or document for inspection by the department.

(4) The minimum records the qualified agent or principal partner of a bail bond agency shall be required to keep are:

- (a) Bank trust account records;
- (b) Duplicate receipt book or receipt journal;

- (c) Prenumbered checks;
- (d) Check register or cash disbursement journal;
- (e) Validated bank deposit slips;
- (f) Reconciled bank monthly statement (client liability vs bank statement);

(g) All canceled checks;

(h) All voided checks;

(i) "Client information" which includes defendant's name, application, dates of transactions, amount received, amount disbursed, current balance, check number, item(s) covered, indemnitor's agreement, and indemnity agreements, premium receipts, collateral receipt(s), letter(s) of forfeiture or surrender form(s), letter(s) of demand and affidavit(s), if surrendered before a forfeiture has occurred, and any written information or communication that may have influence on the bail bond or collateral placed for the bail bond;

(j) A transaction folder or file containing a copy of all agreements, invoices, billings, and related correspondence for each transaction;

(k) Records or description of all collaterals, securities, or monetary instruments received or held in the bail bond business transactions;

(l) Records of training and/or continuing education for each bail bond agents employed in that agency;

(m) Records of exoneration of all bail bond transactions which include: (i) Court, citation or case number (ii) date of issuance of the bail (iii) the defendant's name, address and telephone number (iv) amount of the bond (v) name of the court (vi) date of exoneration of the bond.

(5) The above records shall be maintained for a minimum period of three years.

(6) All funds and monetary instruments received by the agency from customers or clients in business transactions shall be deposited into the trust account within three working days of receipt.

(7) All money spent on behalf of a client must be deposited in and disbursed from the agent's collateral trust account, including advances, loans or money from the agency's business account to the collateral trust account to pay expenses.

(8) The bail bond agent must secure an invoice or billing from any party who provides a service on behalf of the defendant and must include the cost for the service, a description of the service provided, and the service provider's name, address, telephone number, and UBI number (Uniform Business Identifier).

(9) Bail bond agents must secure an affidavit from any party who purchases or takes possession of collateral being liquidated. The affidavit must state the name, address and telephone number of the party(ies) acquiring the property along with a complete description of the property, serial number or other unique identifying number, and the dollar value of the collateral being liquidated with an explanation of how the dollar value was estimated.

(10) If the bail bond agent or agency provides other services to the indemnitor or client, the firm must provide full disclosure in writing of the agent's relationship with any persons providing such services, and prior disclosure of fees charged. The written disclosure must be maintained in the client's transaction file for a minimum period of three years. For purposes of this section, "other services" shall mean services unrelated to the issuance and posting of bail.

(11) The bail bond agent must provide each indemnitor or client a receipt for all personal property. The bail bond agent shall keep a duplicate of all receipts. The receipt will include:

- (a) Date of receipt;
- (b) Complete description of the property to include serial numbers or other unique identifying numbers;
- (c) Signature of the bail bond agent; and
- (d) A file or case number the receipt relates to.

(12) The bail bond agent shall maintain an individual ledger card to post all bank charges of any nature, including credit card charges. Accrued interest shall be posted to the individual ledger card. If bank charges exceed the interest earned, causing the trust account to be lower than client liability, the bail bond agent shall immediately deposit funds into the trust account to bring the trust account into balance. For purposes of this subsection, "immediately" shall mean within one banking day after the bail bond agent receives notice that the trust account is lower than client liability. All interest accruing on the trust bank account must be withdrawn at least once monthly.

(13) Contracts as described in RCW 18.185.270(2) between the bail bond agent and the bail bond recovery agent.

[Statutory Authority: Chapter 18.185 RCW. 05-08-027, § 308-19-240, filed 3/30/05, effective 4/30/05. Statutory Authority: RCW 43.24.086 and chapter 18.185 RCW. 02-07-067, § 308-19-240, filed 3/18/02, effective 7/1/02. Statutory Authority: Chapter 18.185 RCW. 00-01-061, § 308-19-240, filed 12/13/99, effective 1/13/00. Statutory Authority: 1993 c 260 § 13. 93-21-053, § 308-19-240, filed 10/18/93, effective 11/18/93.]

WAC 308-19-250 Bail bond agency audits and inspections. All records required to be maintained by a qualified agent of a bail bond agency by chapter 18.185 RCW, or these rules, together with any other business or other types of records of a licensee which may be related to the bail bond activity, together with any personal property which may be the subject of, or related to, a bail bond business transaction shall be subject to inspection and audit at any reasonable time, with or without notice upon demand by the department of licensing, for the purposes of determining compliance or noncompliance with the provisions of chapter 18.185 RCW, and these rules.

If records requested by the department are not immediately available because they are not physically present upon the premises at the time the demand is made, they shall be procured and produced to the department as soon as possible, but in any event within twenty-four hours, by the licensee.

A reasonable time for the conduct of such inspection and audit shall be:

(1) If the records or items to be inspected or audited are located anywhere upon a premise any portion of which is open for business or to the public (or members and guests), then at any time the premises are so open, or at which they are usually open; or

(2) If the records or items to be inspected or audited are not located upon a premise set out in subsection (1) of this section, then any time between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday.

[Statutory Authority: Chapter 18.185 RCW. 05-08-027, § 308-19-250, filed 3/30/05, effective 4/30/05; 00-01-061, § 308-19-250, filed 12/13/99, effective 1/13/00. Statutory Authority: 1993 c 260 § 13. 93-21-053, § 308-19-250, filed 10/18/93, effective 11/18/93.]

PART D PRELICENSE TRAINING AND EXAMINATION REQUIREMENTS

WAC 308-19-300 Prelicense training and examination requirements for bail bond agents, bail bond agency, and qualified bail bond agent license applicants. (1) Beginning November 1, 2008, all bail bond agents and qualified agent applicants must provide proof of twelve hours of training or take a written state exam and achieve a passing score of at least eighty-five percent.

(a) The prelicense training must consist of eight hours of instruction provided by a credentialed trainer or other department approved source in the topic requirements listed below in subsection (3) of this section;

(b) The prelicense training must also consist of four hours of self study or formal training in the laws and rules relating to bail bonds.

(2) Proof of the eight hours of prelicense instruction provided by a credentialed trainer or other department approved source must be submitted with the bail bond agent or qualified agent application form provided by the department.

(3) The prelicense bail bond agent training topic requirements include:

- (a) The basics of bail bonds;
- (b) Responsibilities of a bail bond agent;
- (c) Understanding power of attorney;
- (d) Court jurisdiction;
- (e) Articulated offense;
- (f) Understanding the liability in surety bonds;
- (g) Role in criminal justice;
- (h) The rights of the clients;
- (i) Ethics pertaining to how to treat your clients;
- (j) Sexual harassment between agents and clients;
- (k) Transporting clients;
- (l) Phone service in jails;
- (m) How to be in compliance with jail requirements;
- (n) Collect call companies;
- (o) Harassment and no contact orders of the client;
- (p) Collateral;
- (q) General recordkeeping;
- (r) Contracts;
- (s) Basic requirements of bail bond recovery agents;
- (t) Understanding of the privacy laws;
- (u) The basics of notaries;
- (v) Basic understanding of the trust account; and
- (w) Application of the Consumer Protection Act.

(4) Approved sources for bail bond agent prelicense training include:

- (a) National or local industry associations;
- (b) Certified bail agent online education courses;
- (c) Credentialed licensed bail bond agents; and
- (d) Other sources determined by the department.

(5) The examination requirement for qualified bail bond agent license applicants under RCW 18.185.030 (1)(a), shall also include, as a minimum:

- (a) All of the subjects as listed in subsection (3) of this section; and
- (b) At a minimum, the following subjects:
 - (i) Recordkeeping and filing;

- (ii) Business licensing, taxation and related reporting and recordkeeping requirements.
 - (iii) Personnel management;
 - (iv) Laws relating to employment;
 - (v) The Americans with Disabilities Act;
- (6) A score of eighty-five percent must be achieved in order to pass the examination. Applicants who fail to achieve an eighty-five percent score will be required to wait a minimum of seven days before reexamination.

[Statutory Authority: Chapter 18.185 RCW. 08-20-036, § 308-19-300, filed 9/23/08, effective 11/1/08; 05-08-027, § 308-19-300, filed 3/30/05, effective 4/30/05; 00-01-061, § 308-19-300, filed 12/13/99, effective 1/13/00. Statutory Authority: 1993 c 260 § 13. 93-21-053, § 308-19-300, filed 10/18/93, effective 11/18/93.]

WAC 308-19-302 Continuing education for bail bond agents. (1) Beginning July 1, 2009, all bail bond agents and qualified agents must provide proof of four hours of continued education before their license can be renewed. Proof must be submitted on a form provided by the department.

(2) Continued education must be in the following topic areas:

- (a) How to work with the courts systems;
 - (b) Refresher course relating to relative laws;
 - (c) Ethics;
 - (d) Transporting defendants between other states; and
 - (e) Other topics applicable to the profession.
- (3) Approved continued education providers include:
- (a) National or local industry associations;
 - (b) Certified bail agent online education courses; and
 - (c) Other sources determined by the department.

(4) Continued education hours cannot be carried forward to the following year.

(a) A licensee may not repeat a course for credit during the same renewal period.

(b) Continued education courses must be taken within the same year of the renewal period.

(c) Licensees acting as a credentialed trainer of an approved continued education course will receive the same credit for the course they teach as the licensees attending receive.

(5) By renewing the bail bond agent or bail bond qualified agent license with the department, the licensee is making declaration that they have met the requirements for annual continued education.

[Statutory Authority: Chapter 18.185 RCW. 08-20-036, § 308-19-302, filed 9/23/08, effective 11/1/08.]

WAC 308-19-305 Minimum prelicense training requirements and exceptions for bail bond recovery agents. (1) Applicants for a license or an endorsement as a bail bond recovery agent must complete not less than thirty-two hours of prelicense training in field operations and self-study in the following subjects, except as otherwise provided in this section.

(a) Prelicense training in civil or criminal law can be achieved through public or private instruction or self-study and must include the following training topics:

- (i) State statutes relating to bail regulations;
- (ii) Constitutional law;

(iii) Procedures for surrendering defendants into custody;

(iv) Procedures for exoneration;

(v) Civil liability;

(vi) Civil rights of persons who are detained in custody;

(vii) Basic principles of identifying and locating defendants to include public records and confidentially, and surveillance;

(viii) Contracts;

(ix) Powers of a bail bond recovery agent;

(b) Prelicense training in procedures for field operations can be achieved through public or private instruction and must include the following training and certifications:

(i) Training in use of force and degrees of force, including verbal, Taser X/M26, baton either expandable, straight stick, or side handle, and oleo capsicum resin sprays or foams rated at 100,000 to 2,000,000 Scoville Heat Units;

(ii) Safety techniques;

(iii) Entering and searching buildings;

(iv) The custody and transportation of prisoners including persons who are violent, emotionally disturbed or under the influence of alcohol, or drugs;

(v) Defensive tactics;

(vi) Application of restraints/handcuffing procedures;

(vii) All applicants shall obtain gun safety training from an approved trainer, or applicants intending to carry a firearm as a bail bond recovery agent shall obtain and keep current firearm certification from the criminal justice training commission;

(viii) Certification in the following defensive tools: Taser X/M26, baton either expandable, straight stick, or side handle, and oleo capsicum resin sprays or foams rated at 100,000 to 2,000,000 Scoville Heat Units within twelve months of applying for a license or endorsement.

(2) In place of completing the prelicense training in procedures for field operations established in subsection (1) of this section required under RCW 18.185.260, an applicant may submit proof to the department that he/she has completed a course of training required by a municipal, state or federal law enforcement agency or a branch of the armed forces to carry out the duties of a peace officer within the past six years.

[Statutory Authority: Chapter 18.185 RCW. 08-20-036, § 308-19-305, filed 9/23/08, effective 11/1/08; 05-08-027, § 308-19-305, filed 3/30/05, effective 4/30/05.]

WAC 308-19-310 Prelicense examination requirements for bail bond recovery agents. Each applicant for a bail bond recovery agent license or endorsement shall pass an examination demonstrating their knowledge and proficiency in all of the training requirements set forth in WAC 308-19-305. Applicants who fail to achieve a passing score of eighty-five percent will be required to wait a minimum of seven days before reexamination and pay the required reexamination fee.

[Statutory Authority: Chapter 18.185 RCW. 08-20-036, § 308-19-310, filed 9/23/08, effective 11/1/08; 05-08-027, § 308-19-310, filed 3/30/05, effective 4/30/05.]

WAC 308-19-315 Study guide for the prelicense bail bond recovery agent examination. All of the information

listed below can be found on the internet. Public libraries offer free access to the use of the internet. Applicants may also access this study guide on the department's internet web site and will link directly to the study resource material.

- (1) Chapter 18.185 RCW.
- (2) Chapter 9.73 RCW Privacy.
- (3) Chapter 42.17 RCW (sections 250 through 348) Public disclosure.
- (4) Title 9A RCW (chapters 04, 08, 16, 36, 40, 42, 46, 50, 52, 56, 60, 68, 72, 76, 82) Washington state criminal code.
- (5) Chapter 10.19 RCW Appearance bonds.
- (6) Chapter 10.88 RCW Uniform Criminal Extradition Act.
- (7) Chapter 9.41 RCW Firearms and dangerous weapons.
- (8) Federal Privacy Act (5 U.S.C. 552A).
- (9) Freedom of Information Act (5 U.S.C. 552).
- (10) Fair Credit Reporting Act (15 U.S.C. 1681).
- (11) Federal Wiretapping Act (18 U.S.C.).
- (12) Gramm-Leach-Bliley Act.
- (13) Title 28 of the U.S. Code.
- (14) Chapter 35.20 RCW Municipal courts.
- (15) Title 2 RCW Courts of records.
- (16) Title 3 RCW District courts/courts of limited jurisdictions.
- (17) Title 4 RCW Civil procedures.
- (18) Taylor vs. Taintor.
- (19) Washington criminal justice training commission use of force continuum.

[Statutory Authority: Chapter 18.185 RCW. 05-08-027, § 308-19-315, filed 3/30/05, effective 4/30/05.]

WAC 308-19-320 Minimum education requirements for bail bond recovery agents. All applicants for a bail bond recovery agent license or endorsement shall have a minimum of a high school education or GED or a minimum of three years of full-time, verifiable experience in the bail bond industry.

[Statutory Authority: Chapter 18.185 RCW. 05-08-027, § 308-19-320, filed 3/30/05, effective 4/30/05.]

WAC 308-19-330 Continued education and recertification for bail recovery agents. (1) Beginning July 1, 2009, bail recovery agents must attest to having participated in at least eight hours of annual training in applicable fields of study relating to the operations of bail recovery to be eligible for renewing their license. Bail recovery agents must keep a record of the annual training and make the record available to the department for three years.

(2) If a bail recovery agent carries a firearm, or other weapons, it is their obligation to be recertified annually. The hours for firearm, or other weapons, recertification cannot be counted towards annual training hours.

(3) By renewing the bail bond recovery agent license with the department, the licensee is making declaration that they have met the requirements for annual continued education.

[Statutory Authority: Chapter 18.185 RCW. 08-20-036, § 308-19-330, filed 9/23/08, effective 11/1/08.]

PART F BRIEF ADJUDICATIVE PROCEEDINGS

WAC 308-19-400 Brief adjudicative proceeding. The director adopts RCW 34.05.482 through 34.05.494 for the administration of brief adjudicative proceedings conducted by request, and/or at the discretion of the director pursuant to RCW 34.05.482, for the categories of matters set forth below. Brief adjudicative proceedings will be limited to a determination of one or more of the following issues:

(1) Whether an applicant for a license meets the minimum criteria for a license to practice as a bail bond recovery agent, bail bond agency, qualified agent, branch office or bail bond agent in this state and the department proposes to deny the application;

(2) Whether a person is in compliance with the terms and conditions of a final order or agreement previously issued by the department;

(3) Whether an education course or curriculum meets the criteria for approval when approval by the department is required or authorized by statute or rule;

(4) Whether a license holder requesting renewal has submitted all required information and whether a license holder meets minimum criteria for renewal; and

(5) Whether a license holder has been certified by a lending agency and reported to the department for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship.

[Statutory Authority: Chapter 18.185 RCW. 05-08-027, § 308-19-400, filed 3/30/05, effective 4/30/05; 00-01-061, § 308-19-400, filed 12/13/99, effective 1/13/00. Statutory Authority: RCW 34.05.410 (1)(a) and 34.05.482 (1)(c). 97-10-047, § 308-19-400, filed 5/1/97, effective 6/1/97.]

WAC 308-19-410 Records used in a brief adjudicative proceeding. (1) The preliminary record with respect to an application for an original or renewal license or for approval of an education course or curriculum shall consist of:

(a) The application for the license, renewal, or approval and all associated documents;

(b) All documents relied upon by the department in proposing to deny the license, renewal, or approval; and

(c) All correspondence between the applicant for license, renewal, or approval and the department regarding the application.

(2) The preliminary record with respect to determination of compliance with a previously issued final order or agreement shall consist of:

(a) The previously issued final order or agreement;

(b) All reports or other documents submitted by, or at the direction of, the license holder, in full or partial fulfillment of the terms of the final order or agreement;

(c) All correspondence between the license holder and the department regarding compliance with the final order or agreement; and

(d) All documents relied upon by the department showing that the license holder has failed to comply with the previously issued final order or agreement.

(3) The preliminary record with respect to the determination of nonpayment or default by the license holder on a fed-

erally or state-guaranteed educational loan or service-conditional scholarship shall consist of:

(a) Certification and report by the lending agency that the identified person is in default or nonpayment on a federally or state-guaranteed educational loan or service-conditional scholarship; or

(b) A written release, if any, issued by the lending agency stating that the identified person is making payment on the loan in accordance with a repayment agreement approved by the lending agency.

[Statutory Authority: Chapter 18.185 RCW. 05-08-027, § 308-19-410, filed 3/30/05, effective 4/30/05; 00-01-061, § 308-19-410, filed 12/13/99, effective 1/13/00. Statutory Authority: RCW 34.05.410 (1)(a) and 34.05.482 (1)(c). 97-10-047, § 308-19-410, filed 5/1/97, effective 6/1/97.]

WAC 308-19-420 Conducting a brief adjudicative proceeding. (1) Brief adjudicative proceedings shall be conducted by a presiding officer for brief adjudicative proceedings designated by the director. The presiding officer for brief adjudicative proceedings shall not have personally participated in the decision, which resulted in the request for a brief adjudicative proceeding.

(2) The parties or their representatives may present written documentation. The presiding officer for brief adjudicative proceedings shall designate the date by which written documents must be submitted by the parties.

(3) The presiding officer for brief adjudicative proceedings may, in his or her discretion, entertain oral argument from the parties or their representatives.

(4) No witnesses may appear to testify.

(5) In addition to the record, the presiding officer for brief adjudicative proceedings may employ department expertise as a basis for the decision.

(6) The presiding officer for brief adjudicative proceedings shall not issue an oral order. Within ten days of the final date for submission of materials or oral argument, if any, the presiding officer for brief adjudicative proceedings shall enter an initial order.

[Statutory Authority: Chapter 18.185 RCW. 05-08-027, § 308-19-420, filed 3/30/05, effective 4/30/05; 00-01-061, § 308-19-420, filed 12/13/99, effective 1/13/00. Statutory Authority: RCW 34.05.410 (1)(a) and 34.05.482 (1)(c). 97-10-047, § 308-19-420, filed 5/1/97, effective 6/1/97.]

WAC 308-19-430 False or misleading advertising. (1) Every advertisement by a licensee that solicits or advertises business shall contain the name of the business exactly as stated on the bail bond agency license, and the physical address of the business as stated on the bail bond agency license, and the bail bond agency license number. A licensed bail bond agency may advertise under a registered trade name of the licensee provided that the registered trade name is stated exactly as documented with the state of Washington master license service. Licensees under this chapter must notify the department in writing, of any registered trade names intended for use in future advertising.

(2) Telephone book directory listings that are for the purpose of providing the business name, address, and telephone number only, are not required to include the license number.

(3) The department has authority to discipline bail bond agents for advertising that is false, fraudulent or misleading, RCW 18.185.110(5) and 18.235.130(3).

(9/23/08)

[Statutory Authority: Chapter 18.185 RCW. 05-08-027, § 308-19-430, filed 3/30/05, effective 4/30/05; 00-01-061, § 308-19-430, filed 12/13/99, effective 1/13/00.]

WAC 308-19-440 Standards of professional conduct.

(1) A bail bond agent shall maintain a detailed record of any collateral taken as security on any bond to the principal, indemnitor, or depositor of such collateral.

(2) A bail bond agent shall preserve or retain separately any collateral or to retain any collateral taken as security on any bond.

(3) A bail bond agent shall not have an outstanding judgment on a bail forfeiture, which judgment is or has been subject to execution on demand.

(4) A bail bond agent shall not use a relationship with any person employed by a jail facility to obtain referrals, or pay a fee or rebate or give or promise anything of value to any person having the power of arrest or having control of federal, state, county, or municipal prisoners, trustees or prisoners incarcerated in any jail, prison or any other place used for the incarceration of persons.

(5) A bail bond agent shall not require as a condition of his/her executing a bail bond that the principal or defendant agree to engage the services of a specific attorney.

(6) A bail bond agent shall not prepare or issue forged bonds or a forged power of attorney.

(7) A bail bond agent shall not arrest or make a threat of arrest to a defendant when the defendant or the indemnitor fails to fulfill a promise to repay credit extended by the bail bond agent.

(8) A bail bond agent shall not pay a fee or rebate or give or promise anything of value to the principal or anyone on his or her behalf.

(9) A bail bond agent shall not pay a fee or rebate or give anything of value to an attorney in bail bond matters, except for legal services actually rendered on behalf of the bail bond agent.

(10) A bail bond agent shall not pay a fee or rebate or pay for a referral except from another bonding company, or promise anything of value to a person in order to secure a settlement, compromise, remission or reduction of the amount of any bail bond.

[Statutory Authority: Chapter 18.185 RCW. 00-01-061, § 308-19-440, filed 12/13/99, effective 1/13/00.]

WAC 308-19-445 Contract requirements between the bail bond agent and the bail bond recovery agent. The purpose of the contract as required in RCW 18.185.270 is to provide information to the public and law enforcement officers to clarify authority and to identify the parties involved during the act of locating and apprehending a fugitive. The contract is to administrate the transfer of information regarding the identity of the fugitive.

(1) There shall be an individual contract on a form provided by the department between the bail bond agent and the bail bond recovery agent for each fugitive.

(2) A bail bond agent shall provide a bail bond recovery agent a copy of each individual contract on a form provided by the department.

(3) The contract form provided by the department shall not prevent a bail bond agent or a bail bond recovery agent

[Ch. 308-19 WAC—p. 9]

from having additional contracts or agreements for conducting the course of their business transaction.

(4) The bail bond agent shall provide to the bail bond recovery agent a photograph of the fugitive if one is available.

(5) The original signed contract shall be kept by the bail bond agency for at least three years and be made available upon request by the department.

(6) Facsimile signatures shall be as effective as if originals.

[Statutory Authority: Chapter 18.185 RCW. 05-08-027, § 308-19-445, filed 3/30/05, effective 4/30/05.]

WAC 308-19-450 Planned forced entry and forced entry reporting—Procedure requirements. When the apprehension of a fugitive defendant meets the definition of RCW 18.185.010(12) Planned forced entry, the bail bond recovery agent shall follow the procedure requirements in RCW 18.185.300.

(1) In addition to the minimum notification requirements of RCW 18.185.300, the notification to law enforcement must provide any prior known risk factors of which the bail bond recovery agent is aware including knowledge regarding any warrants.

(2)(a) Beginning November 1, 2008, bail recovery agents shall report to the department within ten business days after a forced entry on a form provided by the department the following information:

- (i) Date and time of the forced entry;
 - (ii) Location;
 - (iii) Defendant name;
 - (iv) Bail bond agent named on the recovery contract;
 - (v) Bail recovery agent names who participated in the forced entry;
 - (vi) Was any person present during the forced entry injured?
 - (vii) Was property damaged?
 - (viii) Was the defendant present?
 - (ix) Was the defendant surrendered to jail?
- (b) The Forced Entry Reporting Form can be submitted to the department by e-mail, fax or regular postage mail to the address information on the form.

[Statutory Authority: Chapter 18.185 RCW. 08-20-036, § 308-19-450, filed 9/23/08, effective 11/1/08; 05-08-027, § 308-19-450, filed 3/30/05, effective 4/30/05.]

WAC 308-19-455 Bail bond recovery agent badge. The approved badge for bail bond recovery agents is a round gold star burst with a round blue ribbon with gold letters stating bail bond recovery agent. The center of the badge displays a picture of the liberty bell and lady justice. If the license number is attached beneath the badge, the department issued license number shall be used.

[Statutory Authority: Chapter 18.185 RCW. 05-08-027, § 308-19-455, filed 3/30/05, effective 4/30/05.]

WAC 308-19-460 Firearms certification procedure through criminal justice training commission. Individuals licensed as a bail bond recovery agent who carry a firearm while performing the duties of a bail bond recovery agent shall be required to successfully complete a prescribed course

of instruction from a certified instructor of the Washington State Criminal Justice Training Commission located at 19010 1st Avenue South, Burien, Washington 98140 - Telephone: 206-835-7300.

[Statutory Authority: Chapter 18.185 RCW. 05-08-027, § 308-19-460, filed 3/30/05, effective 4/30/05.]

Chapter 18.235 RCW

UNIFORM REGULATION OF BUSINESS AND PROFESSIONS ACT

Sections

18.235.005	Intent.
18.235.010	Definitions.
18.235.020	Application of chapter—Director's authority—Disciplinary authority.
18.235.030	Disciplinary authority—Powers.
18.235.040	Director's authority.
18.235.050	Statement of charges—Hearing.
18.235.060	Procedures governing adjudicative proceedings.
18.235.070	Previous denial, revocation, or suspension of license.
18.235.080	Orders.
18.235.090	Appeal.
18.235.100	Reinstatement.
18.235.110	Unprofessional conduct—Finding.
18.235.120	Payment of a fine.
18.235.130	Unprofessional conduct—Acts or conditions that constitute.
18.235.140	Final order issued under RCW 18.235.130—Failure to comply.
18.235.150	Investigation of complaint—Cease and desist order/notice of intent to issue—Final determination—Fine—Temporary cease and desist order—Action/who may maintain—Remedies not limited.
18.235.160	Violation of injunction—Contempt of court—Civil penalty.
18.235.170	Misrepresentation—Gross misdemeanor.
18.235.180	Crime or violation by license holder—Disciplinary authority may give notification.
18.235.190	Immunity from suit.
18.235.200	Use of records—Exchange of information—Chapter does not affect or limit.
18.235.210	Application of chapter—January 1, 2003.
18.235.900	Short title.
18.235.901	Effective date—2002 c 86 §§ 101-123.
18.235.902	Part headings not law—2002 c 86.
18.235.903	Severability—2002 c 86.

18.235.005 Intent. It is the intent of the legislature to consolidate disciplinary procedures for the licensed businesses and professions under the department of licensing by providing a uniform disciplinary act with standardized procedures for the regulation of businesses and professions and the enforcement of laws, the purpose of which is to assure the public of the adequacy of business and professional competence and conduct.

It is also the intent of the legislature that all businesses and professions newly credentialed by the state and regulated by the department of licensing come under this chapter. [2007 c 256 § 10; 2002 c 86 § 101.]

18.235.010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Board" means those boards specified in RCW 18.235.020(2)(b).

(2) "Department" means the department of licensing.

(3) "Director" means the director of the department or director's designee.

(4) "Disciplinary action" means sanctions identified in RCW 18.235.110.

(5) "Disciplinary authority" means the director, board, or commission having the authority to take disciplinary action against a holder of, or applicant for, a professional or busi-

ness license upon a finding of a violation of this chapter or a chapter specified under RCW 18.235.020.

(6) "License," "licensing," and "licensure" are deemed equivalent to the terms "license," "licensing," "licensure," "certificate," "certification," and "registration" as those terms are defined in RCW 18.118.020. Each of these terms, and the term "appointment" under chapter 42.44 RCW, are interchangeable under the provisions of this chapter.

(7) "Unlicensed practice" means:

(a) Practicing a profession or operating a business identified in RCW 18.235.020 without holding a valid, unexpired, unrevoked, and unsuspended license to do so; or

(b) Representing to a person, through offerings, advertisements, or use of a professional title or designation, that the individual or business is qualified to practice a profession or operate a business identified in RCW 18.235.020 without holding a valid, unexpired, unrevoked, and unsuspended license to do so. [2007 c 256 § 11; 2002 c 86 § 102.]

18.235.020 Application of chapter—Director's authority—Disciplinary authority. (1) This chapter applies only to the director and the boards and commissions having jurisdiction in relation to the businesses and professions licensed under the chapters specified in this section. This chapter does not apply to any business or profession not licensed under the chapters specified in this section.

(2)(a) The director has authority under this chapter in relation to the following businesses and professions:

(i) Auctioneers under chapter 18.11 RCW;

(ii) Bail bond agents and bail bond recovery agents under chapter 18.185 RCW;

(iii) Camping resorts' operators and salespersons under chapter 19.105 RCW;

(iv) Commercial telephone solicitors under chapter 19.158 RCW;

(v) Cosmetologists, barbers, manicurists, and estheticians under chapter 18.16 RCW;

(vi) Court reporters under chapter 18.145 RCW;

(vii) Driver training schools and instructors under chapter 46.82 RCW;

(viii) Employment agencies under chapter 19.31 RCW;

(ix) For hire vehicle operators under chapter 46.72 RCW;

(x) Limousines under chapter 46.72A RCW;

(xi) Notaries public under chapter 42.44 RCW;

(xii) Private investigators under chapter 18.165 RCW;

(xiii) Professional boxing, martial arts, and wrestling under chapter 67.08 RCW;

(xiv) Real estate appraisers under chapter 18.140 RCW;

(xv) Real estate brokers and salespersons under chapters 18.85 and 18.86 RCW;

(xvi) Security guards under chapter 18.170 RCW;

- (xvii) Sellers of travel under chapter 19.138 RCW;
- (xviii) Timeshares and timeshare salespersons under chapter 64.36 RCW;
- (xix) Whitewater river outfitters under chapter 79A.60 RCW;
- (xx) Home inspectors under chapter 18.280 RCW;
- (xxi) Body artists, body piercers, and tattoo artists, and body art, body piercing, and tattooing shops and businesses, under chapter 18.300 RCW; and
- (xxii) Appraisal management companies under chapter 18.310 RCW.

(b) The boards and commissions having authority under this chapter are as follows:

- (i) The *state board of registration for architects established in chapter 18.08 RCW;
- (ii) The Washington state collection agency board established in chapter 19.16 RCW;
- (iii) The state board of registration for professional engineers and land surveyors established in chapter 18.43 RCW governing licenses issued under chapters 18.43 and 18.210 RCW;
- (iv) The funeral and cemetery board established in chapter 18.39 RCW governing licenses issued under chapters 18.39 and 68.05 RCW;
- (v) The state board of licensure for landscape architects established in chapter 18.96 RCW; and
- (vi) The state geologist licensing board established in chapter 18.220 RCW.

(3) In addition to the authority to discipline license holders, the disciplinary authority may grant or deny licenses based on the conditions and criteria established in this chapter and the chapters specified in subsection (2) of this section. This chapter also governs any investigation, hearing, or proceeding relating to denial of licensure or issuance of a license conditioned on the applicant's compliance with an order entered under RCW 18.235.110 by the disciplinary authority. [2010 c 179 § 18. Prior: 2009 c 412 § 22; 2009 c 370 § 20; 2009 c 102 § 5; 2008 c 119 § 21; 2007 c 256 § 12; 2006 c 219 § 13; 2002 c 86 § 103.]

*Reviser's note: The "state board of registration for architects" was changed to "the state board for architects" by 2010 c 129 § 3.

Severability—Effective date—2010 c 179: See RCW 18.310.900 and 18.310.901.

Short title—Implementation—2009 c 412: See RCW 18.300.900 and 18.300.902.

Effective date—2009 c 370 §§ 1-16, 18, 20, and 21: See note following RCW 18.96.010.

Finding—2009 c 370: See note following RCW 18.96.010.

Funeral directors and embalmers account and cemetery account abolished, moneys transferred to funeral and cemetery account—2009 c 102: See note following RCW 18.39.810.

Effective date—2006 c 219: See note following RCW 46.82.285.

18.235.030 Disciplinary authority—Powers. The disciplinary authority has the power to:

- (1) Adopt, amend, and rescind rules as necessary to carry out the purposes of this chapter, including, but not limited to, rules regarding standards of professional conduct and practice;
- (2) Investigate complaints or reports of unprofessional conduct and hold hearings as provided in this chapter;

(3) Issue subpoenas and administer oaths in connection with any investigation, hearing, or proceeding held under this chapter;

(4) Take or cause depositions to be taken and use other discovery procedures as needed in an investigation, hearing, or proceeding held under this chapter;

(5) Compel attendance of witnesses at hearings;

(6) Conduct practice reviews in the course of investigating a complaint or report of unprofessional conduct, unless the disciplinary authority is authorized to audit or inspect applicants or licensees under the chapters specified in RCW 18.235.020;

(7) Take emergency action ordering summary suspension of a license, or restriction or limitation of the licensee's practice or business pending proceedings by the disciplinary authority;

(8) Appoint a presiding officer or authorize the office of administrative hearings, as provided in chapter 34.12 RCW, to conduct hearings. The disciplinary authority may make the final decision regarding disposition of the license unless the disciplinary authority elects to delegate, in writing, the final decision to the presiding officer;

(9) Use individual members of the boards and commissions to direct investigations. However, the member of the board or commission may not subsequently participate in the hearing of the case;

(10) Enter into contracts for professional services determined to be necessary for adequate enforcement of this chapter;

(11) Grant or deny license applications, secure the return of a license obtained through the mistake or inadvertence of the department or the disciplinary authority after providing the person so licensed with an opportunity for an adjudicative proceeding, and, in the event of a finding of unprofessional conduct by an applicant or license holder, impose any sanction against a license applicant or license holder provided by this chapter;

(12) Designate individuals authorized to sign subpoenas and statements of charges;

(13) Establish panels consisting of three or more members of the board or commission to perform any duty or authority within the board's or commission's jurisdiction under this chapter; and

(14) Contract with licensees, registrants, endorsement or permit holders, or any other persons or organizations to provide services necessary for the monitoring or supervision of licensees, registrants, or endorsement or permit holders who are placed on probation, whose professional or business activities are restricted, or who are for an authorized purpose subject to monitoring by the disciplinary authority. If the subject licensee, registrant, or endorsement or permit holders may only practice or operate a business under the supervision of another licensee, registrant, or endorsement or permit holder under the terms of the law regulating that occupation or business, the supervising licensee, registrant, or endorsement or permit holder must consent to the monitoring or supervision under this subsection, unless the supervising licensee, registrant, or endorsement or permit holder is, at the time, the subject of a disciplinary order. [2002 c 86 § 104.]

18.235.040 Director's authority. The director has the following additional authority:

(1) To employ investigative, administrative, and clerical staff as necessary for the enforcement of this chapter, except as provided otherwise by statute;

(2) Upon request of a board or commission, to appoint not more than three pro tem members as provided in this subsection. Individuals appointed as pro tem members of a board or commission must meet the same minimum qualifications as regular members of the board or commission. While serving as a pro tem board or commission member, a person so appointed has all the powers, duties, and immunities, and is entitled to the entitlements, including travel expenses in accordance with RCW 43.03.050 and 43.03.060, of a regular member of the board or commission; and

(3) To establish fees to be paid for witnesses, expert witnesses, and consultants used in any investigation or adjudicative proceedings as authorized by RCW 34.05.446. [2007 c 256 § 13; 2002 c 86 § 105.]

18.235.050 Statement of charges—Hearing. (1) If the disciplinary authority determines, upon investigation, that there is reason to believe that a license holder or applicant for a license has violated RCW 18.235.130 or has not met a minimum eligibility criteria for licensure, the disciplinary authority may prepare and serve the license holder or applicant a statement of charge, charges, or intent to deny. A notice that the license holder or applicant may request a hearing to contest the charge, charges, or intent to deny must accompany the statement. The license holder or applicant must file a request for a hearing with the disciplinary authority within twenty days after being served the statement of charges or statement of intent to deny. The failure to request a hearing constitutes a default, whereupon the disciplinary authority may enter a decision on the facts available to it.

(2) If a license holder or applicant for a license requests a hearing, the disciplinary authority must fix the time of the hearing as soon as convenient, but not earlier than thirty days after the service of charge, charges, or intent to deny. The disciplinary authority may hold a hearing sooner than thirty days only if the disciplinary authority has issued a summary suspension or summary restriction. [2007 c 256 § 14; 2002 c 86 § 106.]

18.235.060 Procedures governing adjudicative proceedings. The procedures governing adjudicative proceedings before agencies under chapter 34.05 RCW, the administrative procedure act, govern all hearings before the disciplinary authority. The disciplinary authority has, in addition to the powers and duties set forth in this chapter, all of the powers and duties under chapter 34.05 RCW, which include, without limitation, all powers relating to the administration of oaths, the receipt of evidence, the issuance and enforcing of subpoenas, and the taking of depositions. [2002 c 86 § 107.]

18.235.070 Previous denial, revocation, or suspension of license. The department shall not issue a license to any person whose license has been previously denied, revoked, or suspended by the disciplinary authority for that profession or business, except in conformity with the terms

and conditions of the certificate or order of denial, revocation, or suspension, or in conformity with any order of reinstatement issued by the disciplinary authority, or in accordance with the final judgment in any proceeding for review instituted under this chapter. [2002 c 86 § 108.]

18.235.080 Orders. An order pursuant to proceedings authorized by this chapter, after due notice and findings in accordance with this chapter and chapter 34.05 RCW, or an order of summary suspension entered under this chapter, takes effect immediately upon its being served. The final order, if appealed to the court, may not be stayed pending the appeal unless the disciplinary authority or court to which the appeal is taken enters an order staying the order of the disciplinary authority, which stay shall provide for terms necessary to protect the public. [2007 c 256 § 15; 2002 c 86 § 109.]

18.235.090 Appeal. A person who has been disciplined or has been denied a license by a disciplinary authority may appeal the decision as provided in chapter 34.05 RCW. [2007 c 256 § 16; 2002 c 86 § 110.]

18.235.100 Reinstatement. A person whose license has been suspended or revoked under this chapter may petition the disciplinary authority for reinstatement after an interval of time and upon conditions determined by the disciplinary authority in the order suspending or revoking the license. The disciplinary authority shall act on the petition in accordance with the adjudicative proceedings provided under chapter 34.05 RCW and may impose such conditions as authorized by RCW 18.235.110. The disciplinary authority may require successful completion of an examination as a condition of reinstatement. [2007 c 256 § 17; 2002 c 86 § 111.]

18.235.110 Unprofessional conduct—Finding. (1) Upon finding unprofessional conduct, the disciplinary authority may issue an order providing for one or any combination of the following:

- (a) Revocation of the license for an interval of time;
- (b) Suspension of the license for a fixed or indefinite term;
- (c) Restriction or limitation of the practice;
- (d) Satisfactory completion of a specific program of remedial education or treatment;
- (e) Monitoring of the practice in a manner directed by the disciplinary authority;
- (f) Censure or reprimand;
- (g) Compliance with conditions of probation for a designated period of time;
- (h) Payment of a fine for each violation found by the disciplinary authority, not to exceed five thousand dollars per violation. The disciplinary authority must consider aggravating or mitigating circumstances in assessing any fine. Funds received must be deposited in the related program account;
- (i) Denial of an initial or renewal license application for an interval of time; or
- (j) Other corrective action.

(2) The disciplinary authority may require reimbursement to the disciplinary authority for the investigative costs incurred in investigating the matter that resulted in issuance

of an order under this section, but only if any of the sanctions in subsection (1)(a) through (j) of this section is ordered.

(3) Any of the actions under this section may be totally or partly stayed by the disciplinary authority. In determining what action is appropriate, the disciplinary authority must first consider what sanctions are necessary to protect the public health, safety, or welfare. Only after these provisions have been made may the disciplinary authority consider and include in the order requirements designed to rehabilitate the license holder or applicant. All costs associated with compliance with orders issued under this section are the obligation of the license holder or applicant.

(4) The licensee or applicant may enter into a stipulated disposition of charges that includes one or more of the sanctions of this section, but only after a statement of charges has been issued and the licensee has been afforded the opportunity for a hearing and has elected on the record to forego such a hearing. The stipulation shall either contain one or more specific findings of unprofessional conduct or a statement by the licensee acknowledging that evidence is sufficient to justify one or more specified findings of unprofessional conduct. The stipulations entered into under this subsection are considered formal disciplinary action for all purposes. [2007 c 256 § 18; 2002 c 86 § 112.]

18.235.120 Payment of a fine. Where payment of a fine is required as a result of a disciplinary action under RCW 18.235.060 or 18.235.150 and timely payment is not made as directed in the final order, the disciplinary authority may enforce the order for payment in the superior court in the county in which the hearing was held. This right of enforcement is in addition to any other rights the disciplinary authority may have as to any licensee ordered to pay a fine but may not be construed to limit a licensee's ability to seek judicial review under RCW 18.235.090. In any action for enforcement of an order of payment of a fine, the disciplinary authority's order is conclusive proof of the validity of the order of a fine and the terms of payment. [2002 c 86 § 113.]

18.235.130 Unprofessional conduct—Acts or conditions that constitute. The following conduct, acts, or conditions constitute unprofessional conduct for any license holder or applicant under the jurisdiction of this chapter:

(1) The commission of any act involving moral turpitude, dishonesty, or corruption relating to the practice of the person's profession or operation of the person's business, whether the act constitutes a crime or not. At the disciplinary hearing a certified copy of a final holding of any court of competent jurisdiction is conclusive evidence of the conduct of the license holder or applicant upon which a conviction or the final holding is based. Upon a conviction, however, the judgment and sentence is conclusive evidence at the ensuing disciplinary hearing of the guilt of the license holder or applicant of the crime described in the indictment or information, and of the person's violation of the statute on which it is based. For the purposes of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended. Except as specifically provided by law, nothing in this subsection abrogates the provisions of chapter 9.96A RCW. However,

RCW 9.96A.020 does not apply to a person who is required to register as a sex offender under RCW 9A.44.130;

(2) Misrepresentation or concealment of a material fact in obtaining or renewing a license or in reinstatement thereof;

(3) Advertising that is false, deceptive, or misleading;

(4) Incompetence, negligence, or malpractice that results in harm or damage to another or that creates an unreasonable risk of harm or damage to another;

(5) The suspension, revocation, or restriction of a license to engage in any business or profession by competent authority in any state, federal, or foreign jurisdiction. A certified copy of the order, stipulation, or agreement is conclusive evidence of the revocation, suspension, or restriction;

(6) Failure to cooperate with the disciplinary authority in the course of an investigation, audit, or inspection authorized by law by:

(a) Not furnishing any papers or documents requested by the disciplinary authority;

(b) Not furnishing in writing an explanation covering the matter contained in a complaint when requested by the disciplinary authority;

(c) Not responding to a subpoena issued by the disciplinary authority, whether or not the recipient of the subpoena is the accused in the proceeding; or

(d) Not providing authorized access, during regular business hours, to representatives of the disciplinary authority conducting an investigation, inspection, or audit at facilities utilized by the license holder or applicant;

(7) Failure to comply with an order issued by the disciplinary authority;

(8) Violating any of the provisions of this chapter or the chapters specified in RCW 18.235.020(2) or any rules made by the disciplinary authority under the chapters specified in RCW 18.235.020(2);

(9) Aiding or abetting an unlicensed person to practice or operate a business or profession when a license is required;

(10) Practice or operation of a business or profession beyond the scope of practice or operation as defined by law or rule;

(11) Misrepresentation in any aspect of the conduct of the business or profession;

(12) Failure to adequately supervise or oversee auxiliary staff, whether employees or contractors, to the extent that consumers may be harmed or damaged;

(13) Conviction of any gross misdemeanor or felony relating to the practice of the person's profession or operation of the person's business. For the purposes of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for conviction and all proceedings in which the sentence has been deferred or suspended. Except as specifically provided by law, nothing in this subsection abrogates the provisions of chapter 9.96A RCW. However, RCW 9.96A.020 does not apply to a person who is required to register as a sex offender under RCW 9A.44.130;

(14) Interference with an investigation or disciplinary action by willful misrepresentation of facts before the disciplinary authority or its authorized representatives, or by the use of threats or harassment against any consumer or witness to discourage them from providing evidence in a disciplinary action or any other legal action, or by the use of financial inducements to any consumer or witness to prevent or

attempt to prevent him or her from providing evidence in a disciplinary action; and

(15) Engaging in unlicensed practice as defined in RCW 18.235.010. [2007 c 256 § 19; 2002 c 86 § 114.]

18.235.140 Final order issued under RCW 18.235.130—Failure to comply. If a person or business regulated by this chapter violates or fails to comply with a final order issued under RCW 18.235.130, the attorney general, any prosecuting attorney, the director, the board or commission, or any other person may maintain an action in the name of the state of Washington to enjoin the person from violating the order or failing to comply with the order. The injunction does not relieve the offender from criminal prosecution, but the remedy by injunction is in addition to the liability of the offender to criminal prosecution and disciplinary action. [2002 c 86 § 115.]

18.235.150 Investigation of complaint—Cease and desist order/notice of intent to issue—Final determination—Fine—Temporary cease and desist order—Action/who may maintain—Remedies not limited. (1) The disciplinary authority may investigate complaints concerning practice by unlicensed persons of a profession or business for which a license is required by the chapters specified in RCW 18.235.020. In the investigation of the complaints, the director has the same authority as provided the disciplinary authority under RCW 18.235.030.

(2) The disciplinary authority may issue a notice of intent to issue a cease and desist order to any person whom the disciplinary authority has reason to believe is engaged or is about to engage in the unlicensed practice of a profession or operation of a business for which a license is required by the chapters specified in RCW 18.235.020.

(3) The disciplinary authority may issue a notice of intent to issue a cease and desist order to any person whom the disciplinary authority has reason to believe is engaged or is about to engage in an act or practice constituting a violation of this chapter or the chapters specified in RCW 18.235.020(2) or a rule adopted or order issued under those chapters.

(4) The person to whom such a notice is issued may request an adjudicative proceeding to contest the allegations. The notice shall include a brief, plain statement of the alleged unlicensed activities, act, or practice constituting a violation of this chapter or the chapters specified in RCW 18.235.020(2) or a rule adopted or order issued under those chapters. The request for hearing must be filed within twenty days after service of the notice of intent to issue a cease and desist order. The failure to request a hearing constitutes a default, whereupon the disciplinary authority may enter a permanent cease and desist order, which may include a civil fine. All proceedings shall be conducted in accordance with chapter 34.05 RCW.

(5) If the disciplinary authority makes a final determination that a person has engaged or is engaging in unlicensed practice or other act or practice constituting a violation of this chapter or the chapters specified in RCW 18.235.020(2) or a rule adopted or order issued under those chapters, the disciplinary authority may issue a permanent cease and desist order. In addition, the disciplinary authority may impose a

civil fine in an amount not exceeding one thousand dollars for each day upon which the person engaged in the unlicensed practice of a profession or operation of a business for which a license is required by one or more of the chapters specified in RCW 18.235.020. The proceeds of such a fine shall be deposited in the related program account.

(6) The disciplinary authority may issue a temporary cease and desist order if a person is engaged or is about to engage in unlicensed practice or other act or practice constituting a violation of this chapter or the chapters specified in RCW 18.235.020(2) or a rule adopted or order issued under those chapters if the disciplinary authority makes a written finding of fact that the public interest will be irreparably harmed by delay in issuing an order. The person receiving a temporary cease and desist order shall be provided an opportunity for a prompt hearing. A temporary cease and desist order shall remain in effect until further order of the disciplinary authority. The failure to request a prompt or regularly scheduled hearing constitutes a default, whereupon the disciplinary authority may enter a permanent cease and desist order, which may include a civil fine.

(7) The cease and desist order is conclusive proof of unlicensed practice or other act or practice constituting a violation of this chapter or the chapters specified in RCW 18.235.020(2) or a rule adopted or order issued under those chapters and may be enforced under RCW 7.21.060. This method of enforcement of the cease and desist order or civil fine may be used in addition to, or as an alternative to, any provisions for enforcement of agency orders set out in chapter 34.05 RCW.

(8) The attorney general, a county prosecuting attorney, the director, a board or commission, or any person may, in accordance with the laws of this state governing injunctions, maintain an action in the name of the state of Washington to enjoin any person practicing a profession or business without a license for which a license is required by the chapters specified in RCW 18.235.020. All fees, fines, forfeitures, and penalties collected or assessed by a court because of a violation of this section shall be deposited in the related program account.

(9) The civil remedies in this section do not limit the ability to pursue criminal prosecution as authorized in any of the acts specified in RCW 18.235.020 nor do the civil remedies limit any criminal sanctions. [2007 c 256 § 20; 2002 c 86 § 116.]

18.235.160 Violation of injunction—Contempt of court—Civil penalty. A person or business that violates an injunction issued under this chapter may be found in contempt of court under RCW 7.21.010. Upon a finding by a court of competent jurisdiction that the person or business is in contempt, the court may order any remedial sanction as authorized by RCW 7.21.030. Further, the court may, in addition to the remedial sanctions available under RCW 7.21.030, order the person or business to pay a civil penalty to the state in an amount not to exceed twenty-five thousand dollars, which shall be deposited in the related program account. For the purposes of this section, the superior court issuing any injunction retains jurisdiction and the cause shall be continued, and in such cases the attorney general acting in the name

of the state may petition for the recovery of civil penalties. [2002 c 86 § 117.]

18.235.170 Misrepresentation—Gross misdemeanor.

A person who attempts to obtain, obtains, or attempts to maintain a license by willful misrepresentation or fraudulent representation is guilty of a gross misdemeanor. [2002 c 86 § 118.]

18.235.180 Crime or violation by license holder—

Disciplinary authority may give notification. If the disciplinary authority has reason to believe that a license holder has committed a crime, or violated the laws of another regulatory body, the disciplinary authority may notify the attorney general or the county prosecuting attorney in the county in which the act took place, or other responsible official of the facts known to the disciplinary authority. [2002 c 86 § 119.]

18.235.190 Immunity from suit.

The director, members of the boards or commissions, or individuals acting on their behalf are immune from suit in any action, civil or criminal, based on any disciplinary actions or other official acts performed in the course of their duties. [2002 c 86 § 120.]

18.235.200 Use of records—Exchange of information—Chapter does not affect or limit.

This chapter does not affect the use of records, obtained from the director or the disciplinary authorities, in any existing investigation or action by any public agency. Nor does this chapter limit any existing exchange of information between the director or the disciplinary authorities and other public agencies. [2002 c 86 § 121.]

18.235.210 Application of chapter—January 1, 2003.

(1) This chapter applies to any conduct, acts, or conditions occurring on or after January 1, 2003.

(2) This chapter does not apply to or govern the construction of and disciplinary action for any conduct, acts, or conditions occurring prior to January 1, 2003. The conduct, acts, or conditions must be construed and disciplinary action taken according to the provisions of law existing at the time of the occurrence in the same manner as if this chapter had not been enacted.

(3) Notwithstanding subsection (2) of this section, this chapter applies to applications for licensure made on or after January 1, 2003. [2007 c 256 § 21; 2002 c 86 § 122.]

18.235.900 Short title. This chapter may be known and cited as the uniform regulation of business and professions act. [2002 c 86 § 123.]

18.235.901 Effective date—2002 c 86 §§ 101-123.

Sections 101 through 123 of this act take effect January 1, 2003. [2002 c 86 § 124.]

18.235.902 Part headings not law—2002 c 86.

Part headings used in this act are not any part of the law. [2002 c 86 § 402.]

18.235.903 Severability—2002 c 86.

If any provision of this act or its application to any person or circumstance is

held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected. [2002 c 86 § 404.]