



## LOUISIANA DEPARTMENT OF INSURANCE

JAMES J. DONELON  
COMMISSIONER

### DIRECTIVE 214

**TO: ALL LICENSED BAIL BOND PRODUCERS AND COMMERCIAL SURETIES**

**FROM: JAMES J. DONELON, COMMISSIONER OF INSURANCE**

**RE: BAIL BOND PREMIUM RATE**

**DATE: FEBRUARY 20, 2019**

I have been presented with evidence of over-charging of premium by the bail bond industry operating within Orleans Parish. This directive is intended for bail bond producers and commercial sureties writing criminal bail bonds in Orleans Parish.

The premium rate for criminal bail bonds is set in La. R.S. 22:1443. The statute sets the premium rate at twelve (12%) percent of the face amount of the bond, or one hundred twenty dollars, whichever is greater. The statute provides for an additional one-half (0.5%) percent fee in Jefferson Parish only as provided for in La. R.S. 13:718(1)(2). Therefore, the allowable premium on criminal bail bonds is twelve and one-half (12.5%) percent in Jefferson Parish and twelve (12%) percent everywhere else in the State of Louisiana, including Orleans Parish.

It has come to my attention that many criminal bail bond producers and commercial sureties operating in Orleans Parish are charging thirteen (13%) percent premium. This is not permissible. The premium rate for criminal bail bonds written in Orleans Parish was set by the Louisiana Legislature, pursuant to La. R.S. 22:1443, at twelve (12%) percent.

Act 350 of the 2005 Regular Legislative Session amended La. R.S. 22:822 and increased the criminal bail bond annual license fee for Orleans Parish commercial surety underwriters from two (2%) percent of liability written to three (3%) percent of liability written. This license fee is distributed between the judicial court fund, sheriff's general fund, district attorney's operating fund, and the Indigent Defenders Program. This license fee is not mentioned in La. R.S. 22:1443 and is therefore separate and distinct from the premium rate which may not exceed twelve (12%) percent in Orleans Parish. The effect of Act 350 was to increase the license fee, which resulted in increased proportionate distributions to each of the aforementioned public agencies. However, the increased fee was to be absorbed by the industry, not passed on to consumers. Had the legislature desired to pass the fee on in the form of increased premium, they would have amended La. R.S. 22:1443. This was not done.

Any criminal bail bond premium collected from consumers in Orleans Parish in excess of twelve (12%) percent of the liability written is in violation of the Louisiana Insurance Code. Any excess premium collected must be returned to the payer.

Bail bond producers and commercial sureties may have been erroneously informed that they could charge thirteen (13%) percent premium. That notwithstanding, I am directing these entities to refund all persons to whom they charged an excessive premium since 2005. Any bail bond producer or commercial surety who has collected premium in excess of twelve (12%) percent is directed to refund said overcharge no later than June 1, 2019.

All bail bond producers and commercial sureties writing criminal bail bonds in Orleans Parish at any time between 2005 and the present are further directed to make every effort to identify the customers who may have been overcharged during this period. The bail bond producers and commercial sureties are directed to document these efforts to identify and locate impacted consumers and document the actual refunds they issue for potential review by the Louisiana Department of Insurance (hereinafter referred to as "LDI"). This document must then be maintained by the bail bond producer and/or commercial surety until at least June 1, 2024.


If at any point after June 1, 2019 a consumer, who the bail bond producer and/or commercial surety was unable to identify, presents evidence to the producer or surety that they were overcharged, the bail bond producer and/or commercial surety is directed to refund the overcharge to said consumer within thirty (30) days.

If at any point after June 1, 2019, the LDI receives evidence of an un-reimbursed overcharge, the LDI may examine the records of the applicable bail bond producer and/or commercial surety to evaluate the efforts of the entity in their attempt to identify impacted consumers and refund overcharges. In reviewing the efforts to locate consumers and refund overcharges, the LDI will review the documentation required to be maintained pursuant to paragraph seven (7) above. The LDI review will include, but not be limited to, the following data elements (the bail bond producer/commercial surety should record as many of which as they are able): consumer name, address, power number (or any number identifying the specific bond), date, amount of premium collected from each consumer, and the face amount of the applicable bond. The documentation should also include a narrative detailing the efforts of the bail bond producer and/or commercial surety in attempting to identify, locate, and refund impacted consumers.

If, after June 1, 2019, the LDI finds an overcharge that was not refunded, the LDI will order a refund be paid within thirty (30) days of the date of the order pursuant to La. R.S. 22:855(C),(E). Anyone found to not have refunded said excessive premium may also be subject to the provisions of 22:855(F),(G).

Please be governed accordingly.

Baton Rouge, Louisiana this 20 day of FEBRUARY, 2019.

  
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JAMES J. DONELON  
COMMISSIONER OF INSURANCE