



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 12, 1993

Honorable René Guerra
Criminal District Attorney
Hidalgo County Courthouse
Edinburg, Texas 78539

Letter Opinion No. 93-21

Re: Whether the Hidalgo County Bail Bond Board has the authority to raise or lower the bail bond to security ratio set by V.T.C.S. article 2372p-3, section 6(g) (ID# 18845)

Dear Mr. Guerra:

You ask whether the Hidalgo County Bail Bond Board (the "bail bond board") has the authority to raise or lower the bail bond to security ratio set by V.T.C.S. article 2372p-3, section 6(g). Section 6(g) provides in pertinent part:

No bondsman may execute, in any county, bail bonds that in the aggregate exceed 10 times the value of the property held as security on deposit or in trust under Subsection (f) of this section. A county officer or employee designated by the board *shall* maintain a current total of the bondsman's potential liability on bonds in force, and *no further bonds may be written or accepted from the bondsman when the limit is reached.* . . . [Emphasis added.]

You ask whether the 10 to 1 ratio set forth in the foregoing provision is mandatory or permissive. We note the mandatory language italicized above. We also direct you to section 10 of article 2372p-3 which sets forth procedures for the suspension and revocation of bondsmen's licenses. Generally, section 10 affords bondsmen both notice and a hearing prior to the suspension or revocation of a license. Section 10(f), however, provides in pertinent part:

If the licensee fails to maintain the security deposit at the proper ratio required by this Act, under Subsection (g) of Section 6 of this Act, the board *shall immediately suspend the license* while the violation continues. *No prior notice or a hearing is necessary.* Once the proper ratio is regained, the suspension shall be immediately lifted. . . . [Emphasis added.]

Under section 10, a bondsman's failure to maintain a security deposit at the ratio required by section 6(g) is a grave enough breach of the licensing requirements to *require* the board to immediately suspend his or her license. Clearly, the legislature intended the section 6(g)

ratio to be mandatory and did not intend to authorize a bail bond board to decrease the amount of security required.

We also conclude that a bail bond board is not authorized to increase the amount of security required. It is well established that bail bond boards lack the authority to impose different or additional licensing requirements when such requirements are expressly set forth in article 2372p-3. *Dallas County Bail Bond Bd. v. Stein*, 771 S.W.2d 577, 580 (Tex. App.--Dallas 1989, writ denied); *see also* Attorney General Opinion JM-471 (1986) at 4 (a bail bond board has only those powers as are expressly conferred upon it by statute, together with those powers necessarily implied from powers or duties expressly provided) (citing cases). Sections 6(g) and 10(f) expressly set forth a mandatory bail bond to security ratio. Therefore, we conclude that a bail bond board lacks the authority to change the bail bond to security ratio, by either increasing or decreasing the amount of security required.

S U M M A R Y

The Hidalgo County Bail Bond Board does not have the authority to raise or lower the bail bond to security ratio set by V.T.C.S. article 2372p-3, section 6(g).

Yours very truly,



Mary R. Crouter
Assistant Attorney General
Opinion Committee