



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

February 26, 1996

The Honorable Jack Skeen, Jr.
Criminal District Attorney
Smith County
Smith County Courthouse
Tyler, Texas 75702

Letter Opinion No. 96-019

Re: Whether a person who operates as a
bail bond licensee in an individual capacity
may, in addition, be licensed as an agent for
a corporate surety (ID# 33627)

Dear Mr. Skeen:

You ask whether, under V.T.C.S. article 2372p-3,¹ a person who operates as a bail bond licensee in an individual capacity may, in addition, be licensed as an agent for a corporate surety. Your request letter informs us that "[a] licensed bail bondsman operating in Smith County, Texas in an individual capacity has made an application [to the Smith County Bail Bond Board] for a license as an agent for a corporate surety with the intention of operating under both licenses at the same time."

The requirements for licensing of bail bondsmen and corporate sureties are found in sections 6 and 7 of article 2372p-3. Section 6(a) provides in part: "Any person desiring to act as a bondsman in any court of the county shall file with the County Bail Bond Board a sworn application for a license." For purposes of article 2372p-3, a "person" is "an individual or corporation." V.T.C.S. art. 2372p-3, § 2(1). A tentatively approved individual applicant must deposit certain funds with the county treasurer or deed real property in trust to the county bail bond board as security for the payment of obligations the applicant will incur in executing bail bonds. *Id.* § 6(f)(1), (2); *Klevenhagen v. International Fidelity Ins. Co.*, 861 S.W.2d 13, 19 (Tex. App.—Houston [1st Dist.] 1993, no writ). A tentatively approved corporate applicant, on the other hand, must "furnish to the sheriff an irrevocable letter of credit as a cash equivalent to satisfy any final judgment of forfeiture that may be made on any bonds on which the corporate licensee is surety." V.T.C.S. art. 2372p-3, § 6(f)(3); *Klevenhagen*, 861 S.W.2d at 19. An individually licensed bondsman may not "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

¹Section 3 of article 2372p-3 provides in part: "The provisions of this Act apply only to the execution of bail bonds in counties having a population of more than 110,000 according to the last federal census or in counties of less than 110,000 where a [county bail bond] board has been created."

under Subsection (f) of this section.” V.T.C.S. art. 2372p-3, §§ 6(g), § 7(a). Regarding corporate sureties, section 7 provides in part:

(a) Whenever in this Act any person is required or authorized to give or execute any bail bond, such bail bond may be given or executed by such principal and any corporation authorized by law to act as surety. When any such corporation authorized by law to act as a surety undertakes to be a surety on a bail bond, such corporation . . . shall be required to meet the applicable requirements prescribed by Section 6 of this Act before being acceptable as a personal surety on a bail bond; Subsection (g) of Section 6 does not apply to a corporate surety.

....

(c) Any corporation which acts as a surety shall, before executing any bail bond, first file in the office of the county clerk of the county where such bail bond is given a power of attorney designating and authorizing the named agent of such corporation to execute such bail bonds by such agent. This power of attorney shall be a valid and binding obligation of the corporation. A separate license is required for each agent operating under a corporate power of attorney.

Because a county bail bond board is not authorized to grant more than one bail bond license to an individual, *see* Attorney General Opinion JM-1023 (1989), you suggest that the grant of a corporate surety agent’s license to a person who is already licensed as an individual bail bondsman would be unauthorized as a grant of a second license to the same person. We believe that your suggestion misses the distinction that a license permitting an individual to act as an agent for a corporate surety is really a license granted to the corporate surety rather than to the agent as an individual bail bondsman. In Attorney General Opinion DM-224 we interpreted section 7(c)² of article 2372p-3 as meaning that a license permitting an individual to act as a designated agent for a corporate

²Section 7(c) provides:

Any corporation which acts as a surety shall, before executing any bail bond, first file in the office of the county clerk of the county where such bail bond is given a power of attorney designating and authorizing the named agent of such corporation to execute such bail bonds by such agent. This power of attorney shall be a valid and binding obligation of the corporation. A separate license is required for each agent operating under a corporate power of attorney.

surety is merely that, and not a license for the individual to act "in his or her own right." Attorney General Opinion DM-224 (1993) at 2. We accordingly concluded that article 2372p-3 "requires a *corporate surety* to obtain a license for each of its designated agents in his or her capacity as a designated agent." *Id.* at 2-3 (emphasis added). In a footnote we noted that "nothing in section 7(c) would prevent a corporate surety from designating as agent an individual who is a licensed bondsman in his or her individual capacity, but this is certainly not required." *Id.* at 3 n.3. Based on our interpretation of article 2372p-3 in Attorney General Opinion DM-224, we answer your first question in the affirmative: a bail bond board may license a corporate surety to operate through a designated agent who is individually licensed to execute bail bonds. *See id.*

You also ask, contingent upon an affirmative answer to the preceding question, whether an individual who is licensed individually to act as a bail bondsman and a corporate surety that is licensed to operate through the individual as a designated agent are permitted to "operate both licenses out of the same name, same place of business, same telephone numbers, same employees, and/or same advertising?" Regarding the first part of your question, "operat[ing] both licenses out of the same name," the answer may depend on the factual situation. We cannot advise you on this aspect of your question without more specificity as to the facts you wish us to consider. Regarding the other things you mention, "same place of business, same telephone numbers, same employees, and/or same advertising," we find nothing in article 2372p-3 that prohibits such an operation.

You finally ask whether an individual who is already licensed in his or her own right as a bail bondsman and who is applying as the designated agent of a corporate surety must complete a financial statement and whether the county bail bond board must consider the agent's own solvency as a factor in evaluating the application. Section 6(a)(6) of article 2372p-3 requires a "person" applying for a license to include "[a] complete sworn financial statement" in the person's application for a bondsman's license. We believe that when any individual, whether already licensed individually or not, applies as a designated agent for a corporate surety, the corporate surety is the relevant "person" for purposes of section 6 and therefore the financial statement requirement applies to the corporation, not to the agent. For the same reason, article 2372p-3 does not require a county bail bond board to consider the designated agent's solvency in evaluating the corporate surety's application.

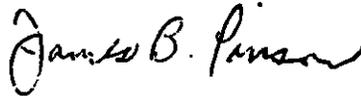
S U M M A R Y

A bail bond board may license a corporate surety to operate through a designated agent who is individually licensed to execute bail bonds.

V.T.C.S. article 2372p-3 does not prohibit an individually licensed bail bondsman from operating as a designated agent of a licensed corporate surety in the same place of business and using the same telephone numbers, same employees, and same advertising as the designated agent uses in operating as an individually licensed bail bondsman.

When a corporate surety applies for a license for a designated agent who is an individually licensed bail bondsman, article 2372p-3 does not require the designated agent to complete a personal financial statement as part of the application, nor does the statute require a county bail bond board to consider the designated agent's solvency in evaluating the corporate surety's application.

Yours very truly,



**James B. Pinson
Assistant Attorney General
Opinion Committee**