



Comments Received by the Department of Consumer Affairs
on
Disclosures by Bail Bond Agents

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COMMENTS ON PROPOSED RULES BY:
Zoë Adel, Advocacy and Policy Associate, Brooklyn Community Bail Fund

PRESENTED BEFORE:
The New York City Department of Consumer Affairs

March 29, 2019

Good morning, and thank you to the Department of Consumer Affairs for inviting us to provide comments on the proposed rules to implement Local Laws 142 and 143 of 2018 regarding bail bond disclosure requirements. While we believe the ultimate solution to prevent the abuses of the bail system is the complete elimination of money bail, we appreciate your efforts to help protect vulnerable consumers from the predatory for-profit bail bond industry.

The Brooklyn Community Bail Fund is the largest charitable bail fund in the country. We've paid bail for over 4,000 individuals to date who would otherwise be jailed pretrial because they cannot afford a few hundred dollars to purchase their freedom. We are also a proud member of the Bail Bond Accountability Coalition, which seeks the meaningful regulation, contraction, and eventual replacement of the commercial bail bonds industry. As we continue to fight for the complete elimination of money bail, we recognize that under our current system people continue to be harmed and exploited by the for-profit bail bond industry every day. Every year, the commercial bail bond industry siphons between \$16 million and \$27 million in nonrefundable fees from low-income New Yorkers, representing a sizeable transfer of wealth from already low-income communities to the multi-billion dollar bail bond industry.¹ Each day we allow predatory commercial bondsmen to operate without any meaningful regulation is doing a monumental disservice to marginalized communities that have been taken advantage of for too long.

Every day in New York City, our clients and other vulnerable New Yorkers experience first-hand the confusion and exploitation that comes from using for-profit bondsmen. We know that bail bondsmen routinely overcharge above the maximum, legally allowable limit and fail to return amounts consumers are entitled to. Just the other day, one of the individuals we paid bail for (Mr.H) told us that his girlfriend enlisted the services of a for-profit bonds company, unaware that we had already posted his bail a day prior. Mr. H's girlfriend paid the bonds company \$480

¹ <https://comptroller.nyc.gov/reports/the-public-cost-of-private-bail-a-proposal-to-ban-bail-bonds-in-nyc/>

in non-refundable fees on a \$3,000 bond, which is over the legally allowable limit of \$300. When the couple returned to request a refund after learning that the bondsman did not, in fact, post their bond, they were told that the refund would only be for \$200, citing an illegal \$100 court fee that would be subtracted. On top of that, the bonds company explained that if the bond was posted, a refund wouldn't be issued for another 30 days. It was clear to us and the family that the bail bondsmen deliberately exploited the urgency of the situation and lack of knowledge about the bond payment process to take advantage of a woman who sought their help in a time of crisis. On top of the bonds company illegally overcharging the family and refusing to return the full amount paid, the family was subsequently evicted from their apartment because the money they used to pay the bail bondsman was money that was allocated for rent. Unfortunately, occurrences such as the one described happen all too often because of the limited knowledge many consumers have about their rights when dealing with for-profit bondsmen, who routinely use the lack of regulation and oversight to openly disregard the law.

On January 17, 2019, we submitted comments to ensure that the proposed Bail Bond Consumer Bill of Rights ("Bill of Rights") will meaningfully protect and empower consumers in crisis and truly reign in on the bail bond industry. We are grateful that the Department of Consumer Affairs incorporated most of our comments into the recent version of the Bill of Rights, such as removing confusing terms like "compensation cap" and the lengthy "Know Important Terms" section. We believe that a few minor changes would ensure that the Bill of Rights is more accessible to all vulnerable consumers.

In the "How the Process Works" section:

- The first point says someone has been arrested and "must go to trial as a defendant." We believe this gives the misimpression that an individual only pays bail if they are going to trial. In reality, the vast majority of cases do not go to trial. We propose the language be amended to read: "Someone close to you is arrested and charged with a crime."
- The fifth point in the "How the Process Works" section begins: "The defendant awaits trial." We believe this first sentence should be deleted and the point should just start: "While the case is open, the defendant must obey...(etc.)" for the same reasons as stated above.
- The last point says, "The case ends" and then discusses exoneration of bail. In fact, bail can be exonerated at any point in the process, which should be noted.
- The last point incorrectly refers to a court document, which says whether bail was exonerated, as the "disposition." Going forward, we propose referring to the document as "exoneration paperwork."
- In the first version of the Bill of Rights, the "How the Process Works" section included a line stating, "The bail bond agent either gives you the collateral immediately or mails

it to you.” This point does not appear in the current version of the Bill of Rights. This language should be re-inserted so consumers clearly understand they are entitled to their collateral back following the conclusion of their case.

Further, the Bill of Rights should clearly spell out how consumers can protect themselves against unscrupulous bail bond practices. As such, the document should explicitly state upfront that the bail bond agent does not work for the court or the government but must be licensed by the New York State Department of Financial Services. The information at the end of the document about how to report an unlicensed bondsmen should also appear on the first page of the document and include information for the DFS website where consumers can find the list of licensed bail agents and bail bond companies.

We hope that the proposed rules are implemented as soon as possible to ensure that vulnerable New Yorkers don't go another day without meaningful protection from the predatory for-profit bail bond industry.

Thank you for your consideration.