

# OVERVIEW

THE AUDITOR  
STATE OF HAWAII

## Sunset Evaluation Report: Bail Bond Agents

### Summary

We evaluated the regulation of bail bond agents under Sections 804-61 and 804-62, Hawaii Revised Statutes, and conclude that the public interest is best served by repeal of the licensing requirement.

Bail is the guarantee of a sum of money to the court to ensure that a defendant in a criminal case will appear in court when scheduled. In many cases a bail bond agent posts 10 percent of the bail (the maximum allowed by law) to enable the defendant to obtain release from custody. If the defendant fails to show up in court, the bail bond agent forfeits the full amount of the bail.

Section 804-61, HRS requires that bail bond agents pay an annual license fee of \$10 and Section 804-62(b), HRS provides for disciplining licensees. But the laws make no agency responsible for collecting fees or performing other licensing duties. We found that bail bond agents have not been licensed in Hawaii since 1990 when the Legislature removed the licensing program from the counties.

We found no evidence that bail bond agents have harmed consumers of their services, that is, defendants who seek release from custody. In the past, concerns have been raised about delays or failure by some bail bond companies to pay the State the forfeited bail amount when the defendant does not show up in court. But existing laws that address this subject are sufficient to protect the State without resorting to licensing.

Some bail bond agents may have charged defendants an initial fee of 10 percent and a subsequent fee when the case remained active for a year. Apparently this practice has been discontinued. Statutory amendments may be appropriate to prevent its recurrence.

### Recommendations

We recommend that the Legislature repeal Sections 804-61 and 804-62(b), HRS, which require licensing of bail bond agents. To increase the protections for consumers, the Legislature should consider amending Section 804-62(a), HRS, which establishes the 10 percent maximum fee. First, the Legislature could make any violation of this provision an unfair or deceptive act or practice under Section 480-2, HRS. Second, the

Legislature could make it clear that the 10 percent fee may be charged one time only. Finally, both Sections 804-61 and 804-62 should be removed from the Sunset Law.

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