

## **Smaller counties struggle to regulate bonds**

By ED TIMMS and KEVIN KRAUSE, Staff Writers

Blame it on bad luck.

Or perhaps a series of ill-advised choices.

Whatever the cause, a West Texas bail bond company ended up in a financial bind.

The company shut its doors. Dozens of its clients forfeited their bonds when they failed to show for court dates.

And when county officials tried to collect what was owed, they discovered that the bail bond company's listed assets didn't match with reality.

Dozens of Texas counties face similar prospects. At a time when, critics say, some larger counties don't have enough authority to regulate bail bond companies, smaller counties have even less.

Bail bond boards are required in counties with at least 110,000 residents. The boards have significantly more power than the sheriffs responsible for regulating bail bondsmen in smaller counties.

For example, bail bond boards require security deposits of "not less than \$50,000" from licensees. But sheriffs cannot impose the kind of licensing system found in bail bond board counties, according to a state attorney general's opinion.

That means less oversight of such companies and potentially more trouble for counties trying to recover bond money.

The counties that lack bail bond boards "are just the wild, wild West," said Bryan Clayton, first assistant district attorney for the 119th Judicial District, covering Tom Green County and two nearby counties.

Industry spokesmen say state law has adequate regulations and those writing bonds try to meet their obligations.

Bail bondsmen who rely on collateral to secure their bonds, such as real estate or certificates of deposit, must place it in trust in counties with regulatory panels. In smaller counties, sheriffs cannot require that collateral be pledged to secure the bonds. Counties without bail bond boards have the authority to make "some inquiry into the assets and liabilities" of a bail bondsman, but many lack the resources to conduct a "meaningful inquiry," said Rex Hall, assistant executive director of the Texas Association of Counties.

Not much control

In 2007, when a company called Anytime Bail Bonds was faltering, Tom Green County's population was less than 110,000 and it didn't yet have a bail bond board.

"We didn't have much control," acknowledged Tom Green County Sheriff Truman Richey, who was the department's chief deputy at the time.

Bail bondsmen provided the sheriff's office a list of their property, he said, "and of course, some of that stuff, there was no way you could ever prove they did or didn't have it."

In Anytime's case, officials said, there wasn't much in the way of assets to help pay off what the company owed.

"The collateral that they had was not redeemable, so they were going to basically have to write a check," said county Treasurer Dianna Spieker. "That didn't transpire. The check's still in the mail."

Tom Green, now with more than 110,000 residents, formed its first bail bond board in April.

Other counties in the area still rely on their sheriffs to provide some oversight, and that's a risk, Clayton said.

"We're never going to get a handle on this and have uniform standards and controls until it becomes under one rule for the entire state," he said.

Duking it out

Brewster County is sparsely populated but big enough to swallow up three Delawares. It's also the site of a contentious dispute between the sheriff and a longtime West Texas bail bondsman.

Sheriff Ronny Dodson wrote bail bondsmen March 30, asking for documentation that they'd completed eight hours of continuing education required by state law, a list of the bonds they'd written that month in all counties, and the most current, audited financial statement signed by an accountant.

Pascual Olibas, who writes bonds in a number of West Texas counties, declined to provide information on the bonds, one of Dodson's attorneys said.

Austin attorney Greg Hudson said that outstanding bonds are considered debt and that the sheriff wanted to ensure that bail bondsmen had sufficient assets to "back up those bonds."

In a response to a federal lawsuit filed by Olibas, Dodson's attorneys argued that the sheriff had the authority to bar bail bondsmen from writing bonds "if adequate collateral for the bail bond cannot be ascertained."

Olibas' attorneys allege that Dodson had singled out their client while failing to go after unqualified companies. Those assertions, among others, are detailed in the federal lawsuit and a state lawsuit he filed against Dodson last year.

Stephen Peters of El Paso, one of Olibas' attorneys, said he's been in the bail bond business since 1984, has never defaulted on a bond forfeiture and has never "even been late paying a forfeiture."

Olibas' attorneys said they are not opposed to more oversight in the smaller counties.

They suggested having regional bail bond boards, so that regulations are not in the hands of only one individual.

Peters said "there's really not any rules" except what local sheriffs come up with on a county-by-county basis - "and it really doesn't work very well."

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### **Who oversees bail bond companies?**

Sheriffs typically oversee bail bondsmen in most Texas counties, those with fewer than 110,000 residents. Those with a higher population must form regulatory bail bond boards. The differences:

#### **When the sheriff regulates bail bondsmen:**

Bail bondsmen must submit a "sworn financial statement" annually. Sheriffs can request additional financial records that show assets and debts.

Sheriffs cannot require that collateral be pledged to secure the bonds written.

If bail bondsmen rely on an insurance company's backing for the bonds they write, sheriffs lack the authority to question the company's solvency.

Sheriffs cannot require that bail bondsmen go through a licensing procedure or enforce other requirements permitted in a bail bond board county.

When bond boards regulate bail bondsmen:

Bail bond boards can issue, suspend and revoke licenses.

To be licensed, bail bondsmen must deposit \$50,000 in funds or real property with the board.

Bail bond boards can obtain information on the solvency of insurance companies that back what bail bondsmen write.

Collateral is placed in trust with the bail bond boards to cover a portion of what bail bondsmen owe if they go out of business.

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