

191—103.5(523C) Financial security deposits.

103.5(1) For purposes of Iowa Code section 523C.5(2)“b” as enacted by 2019 Iowa Acts, Senate File 619, section 5, “placing in trust with the commissioner” means filing a surety bond with the commissioner or creating a financial or custodial account in a manner acceptable to the commissioner.

103.5(2) Requirements for surety bonds.

a. A surety bond filed with the commissioner as a financial security deposit pursuant to Iowa Code section 523C.5(2)“b” as enacted by 2019 Iowa Acts, Senate File 619, section 5, shall be in the form directed by the division and as available on the division’s website.

b. A surety bond filed with the commissioner as a financial security deposit pursuant to Iowa Code section 523C.5(2)“b” as enacted by 2019 Iowa Acts, Senate File 619, section 5, shall cover service contracts still outstanding that predate the effective date of the surety bond and any service contracts executed during the surety bond’s period of coverage except service contracts that have been rescinded or fulfilled or that are secured by another bond.

c. No suit or action shall be commenced by a surety bond claimant later than one year after the expiration date of the surety bond.

d. The surety bond shall, in the event of the service company’s failure to perform under the service contract or otherwise, either reimburse or pay on behalf of the service company any covered amounts that the service company is legally obligated to pay under the service contract.

e. The surety bond is for the benefit of and subject to recovery by any Iowa service contract holder sustaining actionable injury due to the failure of the service company to perform its obligations under a service contract. A holder of a service contract issued in this state may, in the event of nonperformance of the contract by the service company, maintain an action and file a claim against the surety bond filed. The surety’s liability shall extend to all service contracts issued by the service company and outstanding in this state, provided, however, that the surety’s aggregate liability shall not exceed the penal sum of the bond.

f. The surety bond cannot be canceled by the surety except upon written notice of cancellation by the surety to the commissioner by certified mail, and not prior to the expiration of 60 days after receipt of the notice by the commissioner.

g. A service company shall maintain an adequate surety bond and shall continuously monitor the surety amount to assure its adequacy.

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