



Estimated annual
revenue of U.S.
bail industry

**\$1.4–\$2.4
BILLION**

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DATA POINT:

California Appeals Court Ruling Affirms Regulator's Authority to Curb Bail Industry Abuses

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Overview

- In California, approximately 175,000 bail bond contracts are created each year, according to the California Department of Insurance.¹ Nationally, the bail industry is estimated to underwrite around \$14 billion in bail bonds annually, with an estimated revenue of \$1.4–\$2.4 billion.²
- The median bail bond amount in California is \$50,000, with premiums commonly set around 10% of the total bail amount the court has determined. With bail amounts set so high, individuals seeking bail typically need cosigners—friends or family—to afford the bond premium. Cosigners frequently don't understand or are misled about the true nature of their financial responsibility in paying the bond, as companies typically require the premium to be paid even if charges are resolved or dropped.³
- Because many cannot afford a large one-time payment for the premium, much of the industry offers credit bail, where a company saddles families with monthly installment payments that can last for months or years. Yet, cosigners frequently have their consumer rights violated by bail bonds companies because law enforcement and regulatory agencies have failed to enforce consumer credit laws against the industry.
- The bail industry exploits vulnerable Californians—usually people from low-income communities and communities of color that have been over-policed and over-incarcerated—through predatory consumer financial transactions and abusive debt collection tactics, including lawsuits.
- While private bail bond companies are licensed under the Department of Insurance (CDI), no government entity has taken enforcement actions to address the consumer finance abuses perpetuated by these companies.

A Promising Victory

In a precedent-setting ruling, the California Court of Appeals at the end of 2021 handed down a decision affirming a broad preliminary injunction against a bail bond company called Bad Boys Bail Bonds. The court prohibited the company from collecting on \$38 million in debt from cosigners who borrowed money to gain pre-trial release for their loved ones. The order, which stemmed from a historic class action lawsuit filed in 2019 by the Lawyers' Committee for Civil Rights of the San Francisco Bay Area and Keeker, Van Nest and Peters LLP on behalf of cosigners, says bail companies must follow consumer protection laws.⁴

Specifically, the court held that "a bail bond premium financing agreement...is a consumer credit contract subject to the notice provision of section 1799.91 (which pertains to consumer credit contracts) and related statutory protections."



“THIS COURT DECISION sets an important precedent for bail industry regulation in California,” said Lucia Mattox, Director of Western States Outreach and Senior Policy Associate. “CRL and its coalition partners strongly encourage the DFPI to coordinate with the Department of Insurance and exercise its authority to curb the industry’s abusive practices.”

The court also affirmed the trial court’s finding that Bad Boys Bail Bonds never gave consumers the required statutory warning of the risks and responsibilities of cosigning a bail bond financing agreement, and thus deprived them of the protections provided under consumer credit laws.

Like other predatory lenders, many bail bond companies mislead cosigners—who often must make decisions to secure pretrial release for a loved one under tight time constraints and emotional distress—about how much debt they are responsible for when signing contracts. Then, consumers who cannot meet the financial demands are often pressured through harassing phone calls to them, their family members, and sometimes even to their employers.

One cross-complainant in the class action lawsuit against Bad Boys, Kiara Caldwell, described being contacted by the company and feeling “rushed and pressured” into signing an agreement that turned into years of undue financial stress.⁵

Caldwell said she was not informed of the total amount she was financing, that she would be responsible for the entire bail amount, or that she would be liable for the full \$50,000 bail bond if her friend failed to appear in court. She received harassing phone calls until she changed her number, which provided a brief reprieve. But the bail bond company soon resumed the threatening calls to both her and her family, and they eventually filed a lawsuit against her.

Advocates are enthusiastic that California’s revamped Department of Financial Protection and Innovation (DFPI) now has the authority, opportunity, and expertise to provide much-needed regulation of the bail industry in California. Further, the California Attorney General and Insurance Commissioner have expressed approval of treating bail bond contracts as consumer credit and promised to take their own regulatory action to protect citizens. The court ruling should set a precedent for the bail industry in California and nationwide.

Bail Reform Recommendations

- DFPI should provide much-needed regulation of the bail bond industry’s predatory financial and debt collection practices.
- Using its authority under the California Consumer Financial Protection Law (CCFPPL), the Debt Collection Licensing Act (DCLA), and Cal. Fin. Code section 326, DFPI should address abusive financial practices by bail bond companies.

¹ *Recommendations for California’s Bail System*. California Department of Insurance, January 11, 2022, <http://www.insurance.ca.gov/01-consumers/170-bail-bonds/upload/CDI-Bail-Report-Draft-2-8-18.pdf>.

² Color of Change and the American Civil Liberties Union’s Campaign for Smart Justice. *Selling off Our Freedom: How Insurance Corporations Have Taken over Our Bail System*. January 11, 2022, p. 29, https://www.aclu.org/sites/default/files/field_document/059_bail_report_2_1.pdf.

³ Ibid.

⁴ “For the First Time in California, Appeals Court Says Bail Companies Must Follow Consumer Protection Laws, Prohibits Debt Collection of \$38M.” *LCCRSF*, https://lccrsf.org/pressroom_posts/for-the-first-time-in-california-appeals-court-says-bail-companies-must-follow-consumer-protection-laws-prohibits-debt-collection-of-38m/. Accessed January 6, 2022.

⁵ Bindman, Ariana. “Alleging Unfair Business Practices, These East Bay Residents Are Suing the Bail Bond Industry.” *The Oaklandside*, August 18, 2021, <https://oaklandside.org/2021/08/18/alleging-unfair-business-practices-these-east-bay-residents-are-suing-the-bail-bond-industry/>.



CRL, with assistance from the Bail Clinic at Lawyers’ Committee for Civil Rights of the San Francisco Bay Area, is currently finalizing research on the financial impact of the bail industry on California individuals and families.

The findings will help inform future state advocacy for regulatory and legislative action.