

## **Predatory Pricing**

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Predatory pricing is destroying the commercial bail industry. Nearly every state in the nation that permits commercial bail suffers from some form of price cutting with one notable exception, Indiana.

27-10-4-5 of the Indiana Code says a bail agent who knowingly or intentionally executes a bail bond without collecting in full a premium for the bail bond, at the premium rate as filed with and approved by the commissioner, commits a Class D felony.

This statute along with IC 27-10-4-2 (a)(6) prohibiting soliciting has been instrumental in keeping out large retailers whose modis operandi is to enter a market with the express purpose of cutting premium rates to gain market share.

Price gauging or predatory pricing is being addressed in several markets around the country. California Bail Agent Association president Barry Pearlstein said the problems are "systemic". Fix the system and you will correct those areas which allow large retailers to prostitute the bail industry for short term gain. The problems California sites are payment plans on forfeitures, six month extension in addition to the six month forfeiture period and settling forfeitures for less than the full amount.

Maryland bail agents continue to endure heavy price cutting. Agency advertising 5% or 3% down. This kind of reckless marketing only serves to undermine the bail industry. The only ones that make any money in these types of markets are the surety companies. Inevitably the sureties don't make any money because agents accepting less than the full amount of premium are weaker agents financially who eventually fail because often times they cannot pay the bills or losses. Surety companies cannot continue to be successful if their agents are operating in the red.

Indiana is not devoid of problems. We have jail overcrowding resulting in massive releases of defendants without bond and 10% bail spreading throughout the state. The absence of predatory pricing affords proactive Hoosier bail agents and sureties the ability to work together to defeat the expansion of liberal funded release programs.