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IC 27-10

ARTICLE 10. INDIANA BAIL LAW

IC 27-10-1

Chapter 1. Definitions

IC 27-10-1-1

Application of definitions

Sec. 1. The definitions in this chapter apply throughout this article.

As added by P.L.261-1985, SEC.1.

IC 27-10-1-2

" All lines fire and casualty insurance producer"

Sec. 2. "All lines fire and casualty insurance producer" means an insurance producer who holds a valid license issued by the department of insurance to engage in the writing and transacting of all of the following lines and kinds of insurance:

- (1) Property insurance.
- (2) Casualty insurance.
- (3) Surety insurance.
- (4) Disability insurance.
- (5) Inland marine insurance.

As added by P.L.261'-1985, SEC. 1. Amended byP.L.178-2003, SEC. 80.

IC 27-10-1-3 Repealed

(Repealed by P.L.305-1987, SEC.38.)

IC 27-10-1-4 "Bail agent"

Sec. 4. "Bail agent" means a person who has been:

- (1) approved by the commissioner; and
- (2) appointed by an insurer by power of attorney;

to execute or countersign bail bonds for the insurer in connection with judicial proceedings for which the person receives a premium.

As added byP.L.261-1985, SEC. 1. Amended byP.L.224-1993, SEC.2.

IC 27-10-1-4.3 "Bureau"

Sec. 4.3. "Bureau" refers to the child support bureau of the division of family and children established by IC 12-17-2-5.

As added by P.L.23-1996, SEC.25.

IC 27-10-1-5

"Commissioner"

Sec. 5. "Commissioner" means the insurance commissioner.

As added by P.L.261-1985, SEC 1

IC 27-10-1-5.5

"Delinquent"

Sec. 5.5. "Delinquent" means at least:

- (1) two thousand dollars (\$2,000); or
- (2) Three (3) months;
past due on payment of court ordered child support.

As added by P.L.23-1996, SEC. 26.

IC 27-10-1-6

"Disqualifying offense"

Sec. 6. "Disqualifying offense" means:

- (1) a felony; or
- (3) a misdemeanor if an element of the offense involves dishonesty, violence, or a deadly weapon.

As added by P.L.261-1985, SEC.1.

IC 27-10-1-7

"Insurer"

Sec. 7. "Insurer" means any domestic, foreign, or alien surety company which has qualified generally to transact surety business under the requirements of this title and specifically to transact bail bond business in this state.

As added by P.L.261-1985, SEC. 1. Amended by P.L.149-1986, SEC.60.

IC 27-10-1-7.5

"License"

Sec. 7.5. "License" has the meaning set forth in IC 25-1-2-6.

As added by P.L.23-1996, SEC.27.

IC 27-10-1-8

"Premium"

Sec. 8. "Premium" means:

- (1) currency issued by the United States of America paid to a bail agent prior to the execution of a bail bond;
- (2) a check delivered to a bail agent prior to the execution of the bail bond that must be:
 - (A) properly payable when delivered; and
 - (B) deposited in the bail agent's bank account; or
- (3) a credit card transaction if the bail agent:
 - (A) accepts the credit card; and
 - (B) obtains:
 - (i) authorization from the credit card issuer for the amount due; and
 - (ii) an approval number from the credit card issuer for the credit card transaction;

IC 27-10-1-9

"Recovery agent"

Sec. 9. "Recovery agent" means a person who is offered or given any compensation by a bail agent or surety in exchange for assisting the bail agent or surety in apprehending or surrendering any defendant or keeping a defendant under necessary surveillance. This does not affect the right of bail agents or sureties to hire counsel or to ask assistance of law enforcement officers.

As added by P.L.261-1985, SEC.1. Amended by P.L.224-1993, SEC. 4.

IC 27-10-1-10

"Surety"

Sec. 10. "Surety" means any person who satisfies the qualifications of IC 27-10-2-4 and who agrees to pay the bond in the event the defendant fails to appear in court at the scheduled date and time.

As added by P.L.261-1985, SEC.1.

IC 27-10-1-11

"Transfer fee"

Sec. 11. "Transfer fee" means a service charge made by an insurer, in addition to the premium, when a bond is executed by an agent of the insurer for another agent in a different jurisdiction.

As added by P.L.261-1985, SEC.1..

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IC 27-10-2

Chapter 2. General Provisions

IC 27-10-2-1

Administration of article; rules; employees

Sec. 1. (a) The commissioner:

- (1) shall administer this article, which regulates bail agents, recovery agents, and sureties; and
- (2) may adopt rules to enforce this article.

(b) The commissioner may employ and discharge employees, examiners, counsel, and other assistants as necessary and shall prescribe their duties and their compensation.

As added by P.L. 261-1985, SEC. 1. Amended by P.L. 224-1993, SEC. 5.

IC 27-10-2-2

Prima facie evidence

Sec. 2. Any written instrument purporting to be a copy of any action, proceeding, or finding of fact by the commissioner, or any record of the commissioner authenticated under the hand of the commissioner by the seal of the commissioner's office shall be accepted by all the courts of this state as prima facie evidence of the contents thereof.

As added by P.L.; 261-1985, SEC. 1.

IC 27-10-2-3

Undertakings; validity; defect of form or other irregularity; expiration

Sec. 3. (a) An undertaking is valid if it states:

- (1) the court where the defendant is to appear;
- (2) the amount of the bail; and
- (3) that it was made before an official legally authorized to take the bond.

(b) A surety remains liable on an undertaking despite:

- (1) any lack of the surety's qualifications as required by section 4 of this chapter;
- (2) any other agreement that is expressed in the undertaking;
- (3) any failure of the defendant to join in the undertaking; or

(4) any other defect of form or record, or any other irregularity, except as to matters covered by subsection (a).

(c) Any undertaking written after August 31, 1985, shall expire thirty-six (36) months after it is posted for the release of a defendant from custody. This section does not apply to cases in which a bond has been declared to be forfeited, or in which the defendant is a fugitive from the jurisdiction after thirty-six (36) months.

As added by P.L. 261-1985, SEC. 1. Amended by P.L. 355-1989(ss), SEC. 1.

IC 27-10-2-4**Qualifications of surety**

Sec. 4. Every surety for the release of a person on bail shall be qualified as:

- (1) an insurer as defined and meeting the qualifications prescribed in IC 27-1-5-1, and represented by a bail agent as defined in and meeting the qualifications prescribed in this article; or
- (2) a person who:
 - (A) has reached the age of eighteen (18) years;
 - (B) is a citizen of the United States;
 - (C) has been a bona fide resident of Indiana for at least one (1) year immediately preceding the execution of the bond;
 - (D) is related to the person for whom release on bail is sought within the third degree of affinity; and
 - (E) owns real or tangible personal property in Indiana with a net asset value that is acceptable to the proper authority approving the bond.

As added by P.L.261-1985, SEC. 1. Amended by P.L.224-1993, SEC. 6.

IC 27-10-2-5**Surrender of defendants**

Sec. 5. (a) Any time before there has been a breach of the undertaking in any type of bail and cash bond, the surety may surrender a defendant, or the defendant may surrender, to the official to whose custody the defendant was committed at the time bail was taken or to the official into whose custody the defendant would have been given if committed.

(b) A defendant shall be surrendered without the return of premium for the bond if the defendant has been guilty of:

- (1) changing address without notifying the defendant's bail agent or surety;
- (2) concealing one's self;
- (3) leaving the jurisdiction of the court without the permission of the defendant's bail agent or surety or the court; or
- (4) violating the defendant's contract with the bail agent or surety in a way that does harm to the bail agent or the surety or violates the defendant's obligation to the court.

As added by P.L.261-1985, SEC. 1. Amended by P.L.355-1989(ss), SEC.2; P.L.224-1993, SEC. 7.

IC 27-10-2-6**Surrender of defendants; detention; exoneration of sureties**

Sec. 6. (a) The person desiring to make a surrender of the defendant shall be provided a certified copy of the undertakings and a certified copy of the arrest warrant forthwith by the clerk of the court having jurisdiction and shall deliver them together with the defendant to the official in whose custody the defendant was at the time bail was taken or to the official into whose custody the defendant would have been given if committed, who shall detain the defendant in the official's custody thereon, as upon a commitment,

and shall acknowledge the surrender in a written certificate.

(b) The court having jurisdiction of the offense shall order that a surety be exonerated from liability for an undertaking and that any money or bonds deposited as bail be refunded when the person surrendering the defendant has:

- (1) presented to the court both of the documents described in subsection (a); and
- (2) given to the prosecuting attorney:
 - (A) three (3) days notice; and
 - (B) copies of both of the documents described in subsection (a).

As added by P.L.261-1985, SEC. 1. Amended by P.L.348-1995, SEC. 2.

IC 27-10-2-7

Apprehension of defendant; time; fees

Sec. 7. For the purpose of surrendering the defendant, the surety may apprehend the defendant before or after the forfeiture of the undertaking or may empower any law enforcement officer to make apprehension by providing written authority endorsed on a certified copy of the undertaking and paying the lawful fees therefor.

As added by P.L.261-1985, SEC.1.

IC 27-10-2-8

Notice of trial or hearing; breach of undertaking; record

Sec. 8. (a) The court shall give the bail agent or insurer legal notice of the defendant's trial or hearing at least seventy-two (72) hours before the defendant's appearance is required unless the appearance is scheduled within seventy-two (72) hours from the execution of the bond.

(b) The defendant's failure to appear constitutes a breach of the undertaking. The court before which the cause is pending shall make a record of the breach at which time section 12 of this chapter then applies.

As added by P.L.261-1985, SEC. 1. Amended by P.L.224-1993, SEC.8.

IC 27-10-2-9

Property bonds; recordings; liens

Sec. 9. (a) If the undertaking is a property bond, the clerk shall record the same in the proper records of the county. If the undertaking describes property in another county, the clerk of the trial court shall transmit the undertaking to the clerk of such other county, who shall likewise record it and return it to the first mentioned clerk.

(b) The undertaking shall be a lien on any real property described in it, until released in accordance with IC 35-33-8.5.

As added by P.L.261-1985, SEC.1. Amended by P.L~5-1988, SEC.150.

IC 27-10-2-10

Recognizances; affidavits; forms

Sec. 10. (a) Recognizances for the appearance of prisoners shall in all cases and in all courts be in writing, be taken with at least one (1) resident freehold surety or be secured by a surety company, and be substantially in the following form:

STATE OF INDIANA)

) SS:

COUNTY OF _____)

State of Indiana.

vs.

John Doe

We, A B and C D, jointly and severally acknowledge ourselves bound to the state of Indiana in _____ dollars. If A B (the prisoner) shall appear on the _____ day of _____ 19____, in the _____ court, to answer a charge of (here state the offense) and from day to day and from term to term thereof, and abide the order of the court until the cause is determined and not depart there from without leave, then this recognizance shall be void, else to remain in full force.

If the above named defendant does not appear at any time fixed in this bond, the court shall order CD (the surety) to produce the defendant. The court shall mail notice of this order to CD, the surety at _____ and _____ in _____ county and state of Indiana. If the surety does not produce the defendant, and does not pay all costs and late surrender fees in compliance with IC 27-10-2-12, the court shall, three hundred sixty-five (365) days after the mailing of the above notice to the surety, declare the bond forfeited, enter judgment forthwith against the surety, and certify the judgment to the clerk for record. Such forfeiture shall be without pleadings and without change of

judge or change or venue. The obligors on such bond may appeal to the ruling of the court and appeal to the court of appeals as in other civil cases, and on appeal the evidence may be reviewed. Execution shall issue forthwith to the sheriff against the properties of each of us to be levied as other executions are levied.

Witness our hand and seals this _____ day of _____, 19 ____.

A B _____ (SEAL)

C D _____ (SEAL)

taken and approved this _____ day of _____, 19 ____.

(Officer taking surety)

Affidavits shall be taken from each personal surety substantially as follows:

State of Indiana)

County of _____)

I, C D, being duly sworn, on oath say, that am worth in my personal rights and name, over and above all debts and liabilities of any and every kind, not less than _____ dollars, and that I possess real estate in my own name, located in the above-named county, which is

worth over and above all encumbrances and liens, more than _____ dollars; that I am surety on the following recognizance bonds and none other, aggregating the total amount of _____ to-wit: (Here name bonds and amounts, if any) _____. And that I am not surety on any recognizance bond of any kind in any court which bond has been forfeited which judgment remains unpaid.

C D _____ (SEAL)

Subscribed and sworn to before me, this _____ day of _____, 19 ____.

(Officer administering oath)

(b) Printed forms of the above bonds shall be kept by all clerks of court that are authorized by law to admit prisoners to bail and shall be supplied by the clerks to sheriffs.

(c) For the purposes of this article, a cause is determined when a:

- (1) judgment of conviction or acquittal is entered for a misdemeanor;
- (2) judgment is withheld in a misdemeanor case;
- (3) judgment of acquittal is entered in a felony case;
- (4) sentence is imposed in a felony case; or
- (5) defendant has been ordered or admitted to a diversion program.

As added by P.L.261-1985, SEC. 1. Amended by P.L.355-1989(ss), SEC.3.

IC 27-10-2-11

Transcript of proceedings; docketing; liens

Sec. 11. Such recognizance, together with a transcript of the proceedings and all papers in the case, shall be filed forthwith with the clerk of the proper court, who shall docket the cause and record such recognizance forthwith and enter it on the judgment docket, all as provided in IC 35-33-8.5. From the date of the entries in the records of the respective counties as provided in IC 35-33-8.5, it shall be a lien upon all lands in the counties where recorded owned by any of the obligors, and any judgment afterward had upon it shall relate back to the date of entry in such county, or counties, where any such lands are situated.

As added by P.L.261-1985, SEC.1. Amended by P.L.5-1988, SEC.151.

IC 27-10-2-12**Failure of defendant to appear; notice; late surrender fees; forfeiture proceedings; satisfaction of judgment; revocation of license**

Sec. 12. (a) If a defendant does not appear as provided in the bond:

(1) the court shall:

(A) issue a warrant for the defendant's arrest; and

(B) order the bail agent and the surety to surrender the defendant to the court immediately;

(2) the clerk shall mail notice of the order to both:

(A) the bail agent; and

(C) the surety;

at each of the addresses indicated in the bonds; and

(3) if the defendant later is arrested or otherwise appears:

(A) the court shall order that the surety be released from the bond; and

(B) after the court issues an order under clause (A), the surety's original undertaking shall be reinstated if the surety files a written request for the reinstatement of the undertaking with the court. This subsection may not be construed to prevent a court from revoking or resetting bail.

(b) The bail agent or surety must:

(1) produce the defendant; or

(2) prove within three hundred sixty-five (365) days:

(A) that the appearance of the defendant was prevented:

(i) by the defendant's illness or death;

(ii) because the defendant was at the scheduled time of appearance or currently is in the custody of the United States, a state, or a political subdivision of the United States or a state; or

(iii) because the required notice was not given; and

(B) the defendant's absence was not with the consent or connivance of the sureties.

(c) If the bail agent or surety does not comply with the terms of subsection (b) within one hundred twenty (120) days after the mailing of the notice required under subsection (a)(2), a late surrender fee shall be assessed against the bail agent or surety as follows:

(1) If compliance occurs more than one hundred twenty (120) days but not more than one hundred eighty (180) days after the mailing of notice, the late surrender fee is twenty percent (20%) of the face value of the bond.

(2) If compliance occurs more than one hundred eighty (180) days but not more than two hundred ten (210) days after the mailing of notice, the late surrender fee is thirty percent (30%) of the face value of the bond.

(3) If compliance occurs more than two hundred ten (210) days but not more than two hundred forty (240) days after the mailing of notice, the late surrender fee is fifty percent (50%) of the face value of the bond.

(4) If compliance occurs more than two hundred forty (240) days but not more than three hundred sixty-five (365) days after the mailing of notice, the late surrender fee is eighty percent (80%) of the face value of the bond.

(5) If the bail agent or surety does not comply with the terms of subsection (b) within three hundred sixty-five (365) days of the mailing of notice required under subsection (a)(2), the late surrender fee is eighty percent (80%) of the face value of the bond. All late surrender fees are due as of the date of compliance with subsection (b) or three hundred sixty-five (365) days after the mailing of notice required under subsection (a)(2), whichever is earlier, and shall be paid by the surety when due. If the surety fails to pay, then the late surrender fees shall be paid by the commissioner as provided in subsection (t).

(d) If the bail agent or surety does not comply with the terms of subsection (b) within three

hundred sixty-five (365) days of the mailing of notice required by subsection (a)(2), the court shall declare forfeited an amount equal to twenty percent (20%) of the face value of the bond. The court shall immediately enter judgment on the forfeiture, without pleadings and without change of judge or change of venue, and assess against the bail agent or surety all actual costs resulting from the defendant's failure to appear. These costs include jury fees, witness fees, and any other documented costs incurred by the court.

(e) Proceedings relative to the bond, forfeiture of a bond, judgment on the forfeiture, execution of judgment, or stay of proceedings shall be in the court in which the bond was posted. Costs and late surrender fee assessed against a bail agent or surety under subsection (c) shall be satisfied without further order of the court as provided in subsection (f). The court may waive the late surrender fee or extend the period for payment beyond the statutorily permitted period, or both, if the following conditions are met:

- (1) A written request is filed with the court and the prosecutor.
- (2) The surety or bail agent provides evidence satisfactory to the court that diligent efforts were made to locate the defendant.

(f) In the case of an insurer, if the fees, costs, or judgment is not paid, then the clerk shall mail the notice to the commissioner. The commissioner shall:

- (1) within ten (10) days of receipt of the notice forward a copy by certified mail to the insurer;
- (2) (2) forty-five (45) days after receipt of the notice from the clerk, if the commissioner has not been notified by the clerk that the fees or judgment or both have been paid, pay the late surrender fee assessment, costs, and any judgment of forfeiture ordered by the court from funds the insurer has on deposit with the department of insurance;
- (3) upon paying the assessment, costs, and judgment, if any, from funds on deposit, immediately revoke the license of the insurer, if the satisfaction causes the deposit remaining to be less than the amount required by this article; and
- (4) within ten (10) days after revoking a license, notify the insurer and the insurer's agents and the clerk of each county in Indiana of the revocation and the insurer shall be prohibited from conducting a bail bond business in Indiana until the deposit has been replenished.

(g) The notice mailed by the clerk to the commissioner pursuant to the terms of subsection (f) shall include:

- (1) the date on which the defendant originally failed to appear as provided in the bond;
- (2) the date of compliance with subsection (b), if compliance was achieved within three hundred sixty-five (365) days after the mailing of the notice required by subsection (a)(2);
- (3) the amount of the bond;
- (4) the dollar amount of the late surrender fee due;
- (5) the amount of costs resulting from the defendant's failure to appear; and
- (6) if applicable, the dollar amount of the judgment of forfeiture entered by the court.

(h) Any surety on a bond may appeal to the court of appeals as in other civil cases without moving for a new trial, and on the appeal the evidence, if any, shall be reviewed.

(i) Fifty percent (50%) of the late surrender fees collected under this chapter shall be deposited in the police pension trust fund established under IC 36-8-10-12 and the remaining fifty percent (50%) shall be deposited in the county extradition fund established under IC 35-33-14.

As added by P.L.261-1985, SEC. 1. Amended by P.L.355-1989(ss), SEC. 4; P.L.224-1993, SEC.9; P.L.348-1995, SEC.3.

IC 27-10-2-13

Liability of bail agent or surety

Sec. 13. All liability of the bail agent or surety may be enforced on motion without necessity of an independent action if conformance with sections 1 through 12 of this chapter is shown.

IC 27-10-2-14**Collateral securities; receipts; records**

Sec. 14. (a) When a bail agent or insurer accepts collateral, the bail agent or insurer shall give a written receipt for the collateral. The receipt shall give in detail a full description of the collateral received and the terms of redemption. The collateral shall be considered to have been taken in a fiduciary capacity. The bail agent or insurer shall keep copies of all receipts at the bail agent's or insurer's place of business to be available to the commissioner for the commissioner's review.

(b) A bail agent or an insurer shall maintain in the bail agent's or insurer's office records of bail bonds executed or countersigned by the bail agent or insurer for at least one (1) year after the liability of the surety has been terminated. Salient details of the bonds shall be a part of the records required by this subsection.

(c) Before August 16 of each year, a bail agent or a firm or an agency a bail agent is employed by, associated with, or a member of shall file with the commissioner a sworn statement on a form furnished by the commissioner. The statement must include:

- (1) a list of every outstanding or unpaid late surrender fee and judgment;
- (2) the name of the court in which each outstanding or unpaid late surrender fee and judgment is recorded; and
- (3) all other information determined by the commissioner to be pertinent.

(d) The commissioner may:

- (1) deny;
- (2) suspend;
- (3) revoke; or
- (4) refuse to renew;

a license issued under this article for failure of the licensee to comply with subsection (c).

(e) The commissioner may impose a civil penalty of not more than ten thousand dollars (\$10,000) against:

- (1) an insurer;
- (2) a bail agent; or
- (3) a firm or an agency;

for failure to comply with subsection (c).

(f) A civil penalty imposed under subsection (e) may be enforced in the same manner as a civil judgment.

As added by P.L.261-1985, SEC.1. Amended by P.L.355-1989(ss), SEC.5; P.L.224-1993, SEC.11.

IC 27-10-2-15**Bail instead of money or bonds; refund**

Sec. 15. If money or bonds have been deposited, bail by sureties may be substituted therefore at any time before a breach of the undertaking, and the official taking the new bail shall make an order that the money or bonds be refunded to the person depositing the same and they shall be refunded accordingly and the original undertakings shall be cancelled.

As added by P.L.261-1985, SEC. 1.

IC 27-10-2-16**Deposits instead of bond**

Sec. 16. (a) When the defendant has been admitted to bail, the defendant, or another in the defendant's behalf, may deposit with an official authorized to take bail, a sum of money, or nonregistered bonds of the United States, of the state, or of any county, city, or town within the state, equal in market value to the amount of such bail, together with the defendant's personal undertaking,

and an undertaking of such other person, if the money or bonds are deposited by another. Upon delivery to the official in whose custody the defendant is of a certificate of such deposit, the defendant shall be discharged from custody in the cause.

(b) When bail other than a deposit of money or bonds has been given, the defendant or the surety may, at any time before a breach of the undertaking, deposit the sum mentioned in the undertaking, and upon such deposit being made, accompanied by a new undertaking, the original undertaking shall be cancelled.

As added by P.L.261-1985, SEC 1.

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IC 27-10-3

Chapter 3. Licensure and Registration

IC 27-10-3-1**Bail agent and recovery agent; licenses; qualifications**

Sec. 1. (a) A person may not act in the capacity of a bail agent or recovery agent or perform any of the functions, duties, or powers prescribed for bail agents or recovery agents under this article unless the person is qualified and licensed as provided in this article. However, none of the terms of this section shall prohibit any individual or individuals from:

(1) pledging real or other property as security for a bail bond in judicial proceedings and where the individual does not receive, or is not promised, money or other things of value; or

(2) executing any bail bond for an insurer, pursuant to a bail bond service agreement entered into between the insurer and any automobile club or association, financing institution, insurance company, or other organization or association, and on behalf of a person required to furnish bail in connection with any violation of law arising out of the use of a motor vehicle.

(b) A license:

(1) may not be issued except in compliance with this article; and

(2) may only be issued to an individual.

However, upon an affirmative showing to the commissioner in writing by an individual that the individual is an all lines fire and casualty insurance producer, a surety bail agent license shall be issued to the individual without further qualification or fee to represent an insurer the individual is licensed to represent. The individual shall be subject to and governed by laws and rules relating to bail agents when engaged in the activities of a bail agent.

(c) A firm, a partnership, an association, a limited liability company, or a corporation may not be licensed.

(d) The applicant must apply in writing, on forms prepared and supplied by the commissioner, and the commissioner may propound any reasonable interrogatories to an applicant for a license under this article or on any renewal of a license relating to the applicant's qualifications, residence, prospective place of business, and any other matters which, in the opinion of the commissioner, are deemed necessary or expedient in order to protect the public and ascertain the qualifications of the applicant. The commissioner may also conduct any reasonable inquiry or investigation the commissioner sees fit, relative to the determination of the applicant's fitness to be licensed or to continue to be licensed.

(e) The failure of the applicant to secure approval of the commissioner shall not preclude the applicant from applying as many times as the applicant desires. However, an applicant's application may not be considered by the commissioner within one (1) year subsequent to the date upon which the commissioner denied the applicant's last application.

As added by P.L.261-1985, SEC. 1. Amended by P.L.8-1993, SEC.434; P.L.224-1993, SEC. 12; P.L.1- 1994, SEC. 140; P.L.178-2003, SEC.81.

IC 27-10-3-2**Expiration of licenses; renewal**

Sec. 2. (a) All licenses issued expire two (2) years after the end of the month of issue based on the schedule set forth in subsection (b) unless the licensee is on probation or the licensee's license was revoked or suspended before that date by the commissioner or upon notice served upon the commissioner that the insurer or employer of any recovery agent has canceled the licensee's authority to act for the insurer or employer.

(b) A license must be renewed under this article according to the following schedule:

(1) A licensee whose last name commences with the letters A through H shall renew a license before the last day of August every other calendar year beginning August 1993.

(2) A licensee whose last name commences with the letters I through R shall renew a license before the last day of September every other calendar year beginning September 1993.

(3) A licensee whose last name commences with the letters S through Z shall renew a license before the last day of October every other calendar year beginning October 1993.

(c) A licensee who is issued a new license with not more than one (1) year remaining shall pay fifty percent (50%) of the fee set forth in section 4 of this chapter.

As added by P.L.261-1985, SEC. 1. Amended by P.L.224-1993, SEC. 13; P.L.1994, SEC.141.

IC 27-10-3-3**Applications; qualifications**

Sec. 3. (a) The application for license, in addition to the matters set out in section 1 of this chapter, to serve as a bail agent must affirmatively show that:

(1) the applicant is at least eighteen (18) years of age and is of good moral character;

(2) the applicant has never been convicted of a disqualifying offense, notwithstanding IC 25-1-

1.1, or:

(A) in the case of a felony conviction, at least ten (10) years have passed since the date of the applicant's conviction or release from imprisonment, parole, or probation, whichever is later; or

(C) in the case of a misdemeanor disqualifying offense, at least five (5) years have passed since the date of the applicant's conviction or release from imprisonment, parole, or probation, whichever is later; and

(3) the applicant has knowledge, experience, or instruction in the bail bond business, or has held a valid all lines fire and casualty insurance producer's license for one (1) year within the last five (5) years, or has been employed by a company engaged in writing bail bonds in which field the applicant has actively engaged for at least one (1) year of the last five (5) years.

(b) The application must affirmatively show that the applicant has been a bona fide resident of Indiana for one (1) year immediately preceding the date of application. However, the commissioner may waive this requirement.

As added by P.L.261-1985, SEC.1. Amended by P.L.224-1993, SEC. 14; P.L.178-2003, SEC.82.

IC 27-10-3-4**Examination; fees; fingerprints and photographs**

Sec. 4. (a) A license fee of six hundred fifty dollars (\$650) and an examination fee of one hundred dollars (\$100) must be submitted to the commissioner with each application for the issuance of a bail agent's license.

(b) An applicant for a bail agent's license must also furnish with the application a complete set of the applicant's fingerprints and a recent credential-size full face photograph of the applicant. The applicant's fingerprints must be certified by an authorized law enforcement officer.

As added by P.L.261-1985, SEC. 1. Amended by P.L.224-1993. SEC. 15.

IC 27-10-3-5**Recovery agent; additional licensing requirements; fees; fingerprints and photographs**

Sec. 5. In addition to the requirements prescribed in section 1 of this chapter, an applicant for a license to serve as a recovery agent must affirmatively show that:

- (1) the applicant is at least eighteen (18) years of age;
 - (2) the applicant is a citizen of the United States and has been a bona fide resident of this state for more than six (6) months immediately preceding the date of application; and
 - (3) the applicant has never been convicted of a disqualifying offense, notwithstanding IC 25-1-1.1,
- or:

(A) in the case of a felony conviction, at least ten (10) years have passed since the date of the applicant's conviction or release from imprisonment, parole, or probation, whichever is later; or

(B) in the case of a misdemeanor disqualifying offense, at least five (5) years have passed since the date of the applicant's conviction or release from imprisonment, parole, or probation, whichever is later. A license fee of three hundred dollars (\$300) and an examination fee of one hundred dollars (\$100) shall be submitted to the commissioner with each application, together with the applicant's fingerprints and photograph.

As added by P.L. 261-1985, SEC. 1. Amended by P.L. 224-1993,

SEC. 16.

IC 27-10-3-6**Examination; application**

Sec. 6. (a) The applicant for a bail agent's or recovery agent's license shall be required to appear in person and take a written examination prepared by the commissioner testing the applicant's ability and qualifications to be a bail agent or recovery agent.

(b) An applicant is eligible for examination after the date the application is received by the commissioner, if the commissioner is satisfied as to the applicant's fitness to take the examination. Examinations shall be held at times and places designated by the commissioner, and an applicant shall be given notice of time and place not less than fifteen (15) days prior to taking the examination.

(c) The failure of an applicant to pass an examination may not preclude the applicant from taking subsequent examinations.

As added by P.L. 261-1985, SEC. 1. Amended by P.L. 224-1993, SEC. 17; P.L. 348-1995, SEC. 4.

IC 27-10-3-7**Renewal; fees**

Sec. 7. A renewal license shall be issued by the commissioner to a licensee who has continuously maintained a license in effect without further examination, unless deemed necessary by the commissioner, upon the payment of a renewal fee of six hundred fifty dollars (\$650) for bail agents and three hundred dollars (\$300) for recovery agents if the licensee has in all other respects complied with and been subject to this article. After the receipt of the licensee's application for renewal, the Current license continues in effect until the renewal license is issued or denied for cause. *As added by P.L. 261-1985, SEC. 1. Amended by P.L. 224-1993, SEC. 18.*

IC 27-10-3-8**Denial, suspension, or revocation of licenses; refusal to renew**

Sec. 8. (a) The commissioner shall deny, suspend, revoke, or refuse to renew any license issued under this article for any of the following causes:

- (1) Any cause for which issuance of the license could have been refused had it then existed and been known to the commissioner.
- (2) Violation of any laws of this state in the course of dealings under any license issued the licensee by the commissioner.
- (3) Material misstatement, misrepresentation, or fraud in obtaining the license.
- (4) Misappropriation, conversion, or unlawful withholding of money belonging to insurers or others and received in the conduct of business under any license issued to the licensee by the commissioner.
- (5) Fraudulent or dishonest practices in the conduct of business under any license issued to the licensee by the commissioner.
- (6) Willful failure to comply with or willful violation of any proper order or rule of the commissioner.
- (7) When, in the judgment of the commissioner, the licensee has, in the conduct of affairs under the license, demonstrated:
- (A) incompetency or untrustworthiness;
 - (B) conduct or practices rendering the licensee unfit to carry on the bail bond business or making the licensee's continuance in such business detrimental to the public interest;
 - (C) that the licensee is no longer in good faith carrying on the bail bond business; or
 - (D) that the licensee is guilty of rebating, or offering to rebate, or unlawfully dividing, or offering to divide, the licensee's commissions in the case of limited surety agents; and for such reasons is found by the commissioner to be a source of detriment, injury, or loss to the public.
- (8) The listing of the name of the applicant or licensee on the most recent tax warrant list supplied to the commissioner by the department of state revenue.
- (b) The commissioner shall refuse to:
- (1) issue a license; or
 - (2) renew a license issued; under this chapter to a person who is the subject of an order issued by a court under IC 31-14-12-7 or IC 31-16-12-10 (or IC 31-1-11.5-13(m) or IC 31-6-6.1-16(m) before their repeal).
- (c) The commissioner may also levy a civil penalty of not more than ten thousand dollars (\$10,000) for any of the causes listed in subsection (a). Any civil penalty levied under this subsection may be enforced in the same manner as a civil judgment.
- (d) When a person who holds a license under this chapter enters a plea of guilty to a disqualifying offense, the commissioner, immediately upon the court's acceptance of the plea, shall revoke the person's license. The commissioner shall revoke the license of any person who is convicted of a disqualifying offense immediately upon conviction. The pending of sentencing or the pending of an appeal of a conviction of a disqualifying offense does not stay the revocation of a license under this subsection. A person convicted of a felony is not eligible to reapply for a license until ten (10) years from the date of conviction or release from imprisonment, parole, or probation, whichever is later. A person convicted of a misdemeanor disqualifying offense is not eligible to reapply for a license until five (5) years from the date of conviction or release from imprisonment, parole, or probation, whichever is later.

As added by P.L. 261-1985, SEC. 1. Amended by P.L. 29-1987, SEC. 5; P.L. 185-1996, SEC. 16; P.L. 23-1996, SEC. 28; P.L. 1-1997, SEC. 114.

IC 27-10-3-9

Suspension or revocation of licenses; hearings; witnesses; attorneys; penalty

Sec. 9. (a) If, after investigation, the commissioner determines that a licensed bail agent or recovery agent has been guilty of violating any of the laws of this state relating to bail bonds or has committed any disqualifying offense, the commissioner shall, upon ten (10) days notice in writing to:

(1) the bail agent or recovery agent; and

(2) the insurer represented by the bail agent if a surety bail agent; accompanied by a copy of the charges of the unlawful conduct of the bail agent or the recovery agent, suspend the license of the bail agent or the recovery agent, unless on or before the expiration of the ten (10) days the bail agent or the recovery agent makes a written response to the commissioner concerning the charges.

(b) If, after the expiration often (10) days and within twenty (20) days after the expiration of the ten (10) days, the bail agent or the recovery agent fails to make a written response to the charges, the commissioner shall suspend or revoke the license of the bail agent or the recovery agent. If, however, the bail agent or the recovery agent files a written response denying the charges within the time specified, the commissioner shall call a hearing within a reasonable time for the purpose of taking testimony and evidence on any issue of facts made by the charges and answer.

(c) The commissioner shall give notice to:

(1) the bail agent or the recovery agent; and

(2) the insurer represented by the bail agent if a surety bail agent; of the time and place of the hearing. The parties may produce witnesses and appear personally with or without representation by counsel.

(d) If, following the hearing, the commissioner determines by a preponderance of the evidence that the bail agent or the recovery agent is guilty as alleged in the charges, whether or not convicted in court, the commissioner shall:

(1) revoke the license of the bail agent or the recovery agent; or

(2) suspend the bail agent for a definite period of time to be fixed in the order of suspension. The commissioner may also levy a civil penalty against the bail agent or the recovery agent that is not more than ten thousand dollars (\$10,000).

As added by P.L.261-1985, SEC. 1. Amended by P.L.224-1993, SEC.19.

IC 27-10-3-10

Suspension or revocation of licenses; appeals

Sec. 10. An applicant for license as a bail agent or recovery agent whose:

(1) application has been denied; or

(2) license has been suspended, revoked, or denied renewal by the commissioner; may appeal to the circuit court of the county from which the bail agent or recovery agent applied for the license. The appeal shall be heard de novo. *As added by P.L.261-1985, SEC. 1. Amended by P.L.224-1993, SEC.20.*

IC 27-10-3-11

Surety bail agents; terminating appointment

Sec. 11. (a) An insurer who appoints a surety bail agent in Indiana shall give notice of the appointment to the commissioner along with a written application for license for the bail agent. All appointments are subject to the issuance of a license to the surety bail agent.

(b) An insurer that terminates the appointment of a surety bail agent shall file written notice of the termination with the commissioner together with a statement that the insurer has given or mailed notice to the surety bail agent. The notice filed with the commissioner must state the reasons, if any, for the termination. Information furnished to the commissioner is confidential and may not be used as evidence in or a basis for any action against the insurer or any of the insurer's representatives.

As added by P.L.261-1985, SEC. 1. Amended by P.L.224-1993, SEC.21; P.L.348-1995, SEC.5.

IC 27-10-3-12**Deposits in accounts of insurers or agents; reports**

Sec. 12. All insurers or general agents requiring bail bond agents to post deposits pursuant to their bail bond writing authority must maintain those deposits in a bank, savings association, or credit union in this state. Each insurer or general agent shall report to the commissioner the location of each agent's account at the time of the agent's license issuance or renewal. Any change in the location of an agent's account shall be reported by the insurer or general agent to the commissioner within thirty (30) days of the change of location.

As added by P.L. 261-1985, SEC. 1. Amended by P.L. 79-1998, SEC. 33.

IC 27-10-3-13**Discontinuing business; return of license**

Sec. 13. A bail agent who discontinues writing bail bonds during the period for which the bail agent is licensed shall:

- (1) notify the clerks of the circuit court and the sheriffs with whom the bail agent is registered; and
- (2) return the bail agent's license to the commissioner for cancellation; within thirty (30) days after the discontinuance.

As added by P.L. 261-1985, SEC. 1. Amended by P.L. 224-1993, SEC. 22.

IC 27-10-3-14**Recovery agent; use of licensed persons; list**

Sec. 14. A person who is licensed as a bail agent may use as a recovery agent any person who holds a valid recovery agent's license. A bail agent must, on or before October 1 of each year, furnish to the commissioner, on a form supplied by the commissioner, a list of all recovery agents used by the bail agent during the preceding year. *As added by P.L. 261-1985, SEC. 1. Amended by P.L. 224-1993, SEC. 23.*

IC 27-10-3-15**Insurers; deposits; engaging in bail bond business**

Sec. 15. All insurers must deposit with the commissioner cash, United States treasury notes, or bonds in bearer form with coupons attached having a par value of at least seventy-five thousand dollars (\$75,000) in order to obtain a license to engage in the bail bond business, out of which the commissioner shall satisfy judgment on all forfeitures which have not been paid. Such deposit shall be subject to all laws and rules as are deposits by domestic insurance companies. *As added by P.L. 261-1985, SEC. 1.*

Amended by P.L. 255-1995, SEC. 12.

IC 27-10-3-16 Repealed

(Repealed by P.L. 224-1993, SEC. 32.)

IC 27-10-3-17**Registration of licenses; power of attorney**

Sec. 17. (a) A bail agent may not become a surety on an undertaking unless the bail agent has registered the bail agent's license in the office of the sheriff and with the clerk of the circuit court in the county in which the bail agent resides. The bail agent may then become a surety on an undertaking in any other county upon filing a copy of the bail agent's license in the office of the sheriff and with the clerk of the circuit court in the other county. A surety bail agent must also file an original qualifying power of attorney signed by the bail agent and attached to a specimen bail bond with the clerk of the circuit court and file a copy of the qualifying power of attorney with the office of the sheriff. The clerk of the circuit court and the sheriff may not permit the registration of a bail agent unless the bail agent is currently licensed by the commissioner under this article.

(b) A recovery agent may not perform the recovery agent's duties unless the recovery agent has registered the recovery agent's license within fifteen (15) days of issuance or any renewal in the office of the sheriff and with the clerk of the circuit court in the county where the recovery agent resides. The clerk of the circuit court and the sheriff may not permit a registration unless the recovery agent is properly licensed by the commissioner under this article.

As added by P.L.261-1985, SEC.1. Amended by P.L.224-1993, SEC.24,' P.L.348-1995, SEC. 6.

IC 27-1003-18

Access to jails

Sec. 18. A person who holds a valid bail agent's license issued by the insurance commissioner and registered as required in section 17 of this chapter may have equal access to the jails of this state for the purpose of making bond, subject to this article and rules adopted under this article. *As added by P.L.261-1985, SEC.1. Amended by P.L.224-1993, SEC.25.*

IC 27-10-3-19

Duty of commissioner upon receipt of support order; reinstatement

Sec. 19. (a) Upon receiving an order of a court issued under IC 31-14-12-7 or IC 31-16-12-10 (or IC 31-1-11.5-13(m) or IC 31-6-6.1-16(m) before their repeal), the commissioner shall:

- (1) suspend a license issued under this chapter to any person who is the subject of the order; and
- (2) promptly mail a notice to the last known address of the person who is the subject of the order, stating the following:

(A) That the person's license is suspended beginning five (5) business days after the date the notice is mailed, and that the suspension will terminate not earlier than ten (10) business days after the commissioner receives an order allowing reinstatement from the court that issued the suspension order.

(B) That the person has the right to petition for reinstatement of a license issued under this chapter to the court that issued the order for suspension.

(b) The commissioner shall not reinstate a license suspended under subsection (a) until the commissioner receives an order allowing reinstatement from the court that issued the order for suspension.

As added by P.L.23-1996, SEC.29. Amended by P.L.1-1997, SEC.115.

IC 27-10-3-20

Notice; probationary status; appeal; reinstatement

Sec. 20. (a) Upon receiving an order from the bureau (Title *N-D* agency) under IC 12-17-2-34(i), the commissioner shall send to the person who is the subject of the order a notice that does the following:

- (1) States that the person is delinquent and is subject to an order placing the person on probationary status.
- (2) Explains that unless the person contacts the bureau and:
 - (A) pays the person's child support arrearage in full;
 - (B) requests the activation of an income withholding order under IC 31-16-15-2 and establishes a payment plan with the bureau to pay the arrearage; or
 - (C) requests a hearing under IC 12-17-2-35; within twenty (20) days after the date the notice is mailed, the commissioner shall place the person on probationary status with respect *to* any license issued *to* the person under this chapter.

(3) Explains that the person may *contest* the bureau's determination that the person is delinquent and subject to an order placing the person on probationary status by making written application to the bureau within twenty (20) days after the date the notice is mailed.

(4) Explains that the only basis *for* contesting the bureau's determination that the person is delinquent and subject to an order placing the person on probationary status is a mistake *of* fact.

(5) Explains the procedures to:

(A) pay the person's child support arrearage in full;

(B) establish a payment plan with the bureau to pay the arrearage;

(C) request the activation *of* an income withholding order under IC 31-16-15-2; and (D) request a hearing under IC 12-17-2-35.

(6) Explains that the probation will terminate ten (10) business days after the commissioner receives a notice *from* the bureau that the person has:

(A) paid the person's child support arrearage in full; *or*

(B) established a payment plan with the bureau to pay the arrearage and requested the activation *of* an income withholding order under IC 31-16-15-2.

(b) Upon receiving an order *from* the bureau (Title IV-D agency) under IC 12-17-2-36(d), the commissioner shall send to the person who is the subject *of* the order a notice that states the following:

(1) That a license issued to the person under this chapter has been placed on probationary status, beginning five (5) business days after the date the notice is mailed, and that the probation will terminate ten (10) business days after the commissioner receives a notice *from* the bureau that the person has:

(A) paid the person's child support arrearage in full; *or*

(B) established a payment plan with the bureau to pay the arrearage and requested the activation *of* an income withholding order under IC 31-16-15-2.

(2) That if the commissioner is advised by the bureau that the person whose license has been placed on probationary status has failed to:

(A) pay the person's child support arrearage in full; *or*

(B) establish a payment plan with the bureau to pay the arrearage and request the activation *of* an income withholding order under IC 31-16-15-2; within twenty (20) days after the date the notice is mailed, the commissioner shall suspend the person's license.

(c) If the commissioner receives a notice *from* the bureau (Title IV-D agency) under IC 12-17-2-34 (i) that the person whose license has been placed on probationary status has failed to:

(1) pay the person's child support arrearage in full; *or*

(2) establish a payment plan with the bureau to pay the arrearage and request the activation *of* an income withholding order under IC 31-16-15-2; within twenty (20) days after the notice required under subsection (b) is mailed, the commissioner shall suspend the person's license.

(d) The commissioner may *not* reinstate any license placed on probation or suspended under this section until the commissioner receives a notice *from* the bureau that the person has:

(1) paid the person's child support arrearage in full; *or*

(2) established a payment plan with the bureau to pay the arrearage~ and requested the activation *of* an income withholding order under IC 31-16-15-2. '

As added by P.L.23-1996, SEC.30. Amended by P.L.1-1997, SEC.11.6.

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IC 27-10-4

Chapter 4. Prohibited Activities .

IC 27-10-4-1**Financial interest in agencies; services during period of license suspension or revocation**

Sec. 1. (a) No person may possess a financial interest in, be employed by, have an agency relationship with, or perform any services for a bail bond agency or insurer during the period of license suspension or revocation. No licensee under this article may accept any services from a person during the period of that person's license suspension or revocation.

(b) The commissioner shall immediately suspend under IC 27-10-3-8(a) an agent, agency, or insurer who violates this section.

(c) A person who knowingly or intentionally violates this section commits a Class B misdemeanor. *As added by P.L.261-1985, SEC.1. Amended by P.L.29-1987, SEC. 6; P.L.355-1989(ss), SEC.6.*

IC 27-10-4-2**Advising employment of attorney; paying fees or rebates; acting as attorney; accepting property; soliciting business**

Sec. 2. (a) A bail agent or recovery agent may not do any of the following:

(1) Suggest or advise the employment of or name for employment any particular attorney to represent the bail agent's principal.

(2) Pay a fee or rebate or give any property to an attorney in bail bond matters, except in defense of any action on a bond.

(3) Pay a fee or rebate or give or promise any property to the principal or anyone in the bail agent's behalf.

(4) Participate in the capacity of an attorney at a trial or hearing of one on whose bond the bail agent is surety.

(5) Accept any property from a principal except the premium, bail bond filing fee (when applicable), and transfer fee (when applicable), except that the bail agent or surety may accept collateral security or other indemnity from the principal that must be returned upon final termination of liability on the bond. The collateral security or other indemnity required by the bail agent or surety must be reasonable in relation to the amount of the bond.

(6) Solicit business in or about any place where prisoners are confined or in or near any courtroom.

(b) A person who recklessly violates this section or who operates as a bail agent or recovery agent without a valid license commits a Class A misdemeanor.

As added by P.L. 261-1985, SEC.1. Amended by P.L.224-1993, SEC.26.

IC 27-10-4-3**Persons excluded as bail agent**

Sec. 3. (a) The following persons may not be bail agents or receive any benefits from the execution of any bail bond:

(1) Jailers.

(2) Law enforcement officers.

(3) Judges.

(4) Persons having anything to do with the control of federal, state, county, or municipal prisoners.

(b) A person who recklessly violates this section commits a Class B misdemeanor.

As added by P.L.261-1985, SEC.1. Amended by P.L..224-1993, SEC.27.

IC 27-10-4-4

Blank bond; signature

Sec. 4. (a) A bail agent may not:

(1) sign or countersign in blank any bond; or

(2) give a power of attorney to or otherwise authorize anyone to countersign the bail agent's name to bonds unless the person who is authorized is a licensed bail agent directly employed by the bail agent giving the power of attorney.

(b) A person who recklessly violates this section commits a Class B misdemeanor.

As added by P.L.261-1985, SEC. 1. Amended by P.L.224-1993, SEC. 28.

IC 27-10-4-5

Failure of bail agent to collect full premium

Sec. 5. 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.

As added by P.L.261-1985, SEC. 1. Amended by P.L.224-1993, SEC. 29.

IC 27-10-4-6

Payments for apprehension or surrender of defendants

Sec. 6. (a) A person may not give or receive anything of value in exchange for the apprehension or surrender of a defendant unless the payment is made:

(1) to a law enforcement agency for actual expenses incurred in the apprehension or surrender, or both, of the defendant, or other lawful fees; or

(2) to a bail agent or recovery agent properly licensed under this article.

(b) A bail agent or recovery agent who knowingly or intentionally gives or offers to give anything of value to any law enforcement officer, officer of the court, or other public servant, except as

(c) A person who recklessly violates this section, except as provided in subsection (b), commits a Class B misdemeanor.

As added by P.L.261-1985, SEC.1. Amended by P.L.224-1993, SEC. 30.

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IC 27-10-5

Chapter 5. Enforcement and Administration

IC 27-10-5-1**Bail bond enforcement and administration fund; deposit of fees; appropriation**

Sec. 10 (a) All fees and penalties collected by the commissioner under this article shall be paid into a dedicated fund of the state treasury to be utilized for the enforcement and administration of this article to be designated the bail bond enforcement and administration fund. The fund shall be administered by the commissioner.

(b) Any unexpended balance remaining in the fund at the end of the fiscal year shall not lapse but shall remain exclusively appropriated and available solely for the enforcement and administration of this article. Interest that accrues from these investments shall be deposited in the fund. The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested.

As added by P.L.261-1985, SEC.1.

IC 27-10-5-2**Bail bond enforcement and administration fund; use of money**

Sec. 2. The money in the fund created by this chapter shall be used for the following purposes and no other:

- (1) The employment of a qualified investigator and investigation staff.
- (2) The expense of examination.
- (3) Licensing.
- (4) Forms.
- (5) Other related expenses necessitated by this article.

As added by P.L.261-1985, SEC.1.

IC 27-10-5-3**Investigator; qualifications; staff; duties**

Sec. 3. (a) The commissioner shall appoint a qualified investigator who shall serve at the pleasure of the commissioner. The investigator shall be of good moral character, have had at least five (5) years of experience as an insurance or private investigator or equivalent experience as a law enforcement or judicial officer, and be thoroughly familiar and conversant with Indiana criminal law, including the court procedure and structure.

(b) The investigator, with the approval of the commissioner, may select such staff as is necessary to enable the investigator to properly perform the investigator's duties. The primary duty of the investigator and the investigator's staff is to administer this article and to investigate all violations of this article and to report and recommend to the commissioner all findings made on the investigation.

As added by P.L.261-1985, SEC.1.

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The 2003 Florida Statutes

CHAPTER 648

BAIL BOND AGENTS AND RUNNERS

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648.24 Declaration of public policy. It is the public policy of this state and the intent of the Legislature that a bond for which fees or premiums are charged must be executed by a bail bond agent licensed pursuant to this chapter in connection with the pretrial or appellate release of a criminal defendant and shall be construed as a commitment by and obligation upon the bail bond agent to ensure that the defendant appears at all subsequent criminal proceedings.

History.--s. 1, ch. 2002-260.

648.25 Definitions. As used in this chapter, the term:

(1) "Bail bond agency" means:

(a) The building where a licensee maintains an office and where all records required by ss. 648.34 and 648.36 are maintained; or

(b) An entity that:

1. Charges a fee or premium to release an accused defendant or detainee from jail; or

2. Engages in or employs others to engage in any activity that may be performed only by a licensed and appointed bail bond agent.

(2) "Bail bond agent" means a limited surety agent or a professional bail bond agent as hereafter defined.

(3) "Managing general agent" means any individual, partnership, association, or corporation appointed or employed by an insurer to supervise or manage the bail bond business written in this state by limited surety agents appointed by the insurer.

(4) "Insurer" means any domestic, foreign, or alien surety company which has been authorized to transact surety business in this state.

(5) "Limited surety agent" means any individual appointed by an insurer by power of attorney to execute or countersign bail bonds in connection with judicial proceedings who receives or is promised money or other things of value therefor.

(6) "Primary bail bond agent" means a licensed bail bond agent who is responsible for the overall operation and management of a bail bond agency location and whose responsibilities include hiring and supervising all individuals within that location. A bail bond agent may be designated as primary bail bond agent for only one bail bond agency location.

(7) "Professional bail bond agent" means any person who pledges United States currency, United States postal money orders, or cashier's checks as security for a bail bond in connection with a judicial proceeding and receives or is promised therefor money or other things of value.

(8) "Temporary bail bond agent" means a person employed by a bail bond agent or agency, insurer, or managing general agent, and such licensee has the same authority as a licensed bail bond agent,

including presenting defendants in court; apprehending, arresting, and surrendering defendants to the proper authorities, while accompanied by a supervising bail bond agent or an agent from the same agency; and keeping defendants under necessary surveillance. However, a temporary licensee may not execute or sign bonds, handle collateral receipts, or deliver bonds to appropriate authorities. A temporary licensee may not operate an agency or branch agency separate from the location of the supervising bail bond agent, managing general agent, or insurer by whom the licensee is employed. This does not affect the right of a bail bond agent or insurer to hire counselor to obtain the assistance of law enforcement officers.

History--s. 1, ch. 29621, 1955; s. 2, ch. 57-63; s. 6, ch. 65-492; ss. 13, 35, ch. 69-106; s. 177, ch. 70-339; s. 272, ch. 71-377; s. 3, ch. 76-168; s.1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 1,71,72, ch. 82-175; s. 138, ch. 83-216; ss.1, 50, 51, ch. 84-103; s. 22, ch. 85-208; s. 5, ch. 87-321; ss.1, 46,47, ch. 90-131; s. 4, ch. 91-429; s. 1, ch. 96-372; s. 28, ch. 96-388; s. 2, ch. 2002-260; s. 1650, ch. 2003-261.

Note. -Former s. 903.37.

648.26 Department of Financial Services; administration.

(1) The department shall administer the provisions of this chapter as provided in this chapter.

(a) The department has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this chapter conferring powers or duties upon it.

(b) The department may employ and discharge such employees, examiners, counsel, and other assistants as shall be deemed necessary, and it shall prescribe their duties; their compensation shall be the same as other state employees receive for similar services.

(2) The department shall adopt a seal by which its proceedings are authenticated. Any written instrument purporting to be a copy of any action, proceeding, or finding of fact by the department, or any record of the department authenticated by the seal, shall be accepted by all the courts of this state as prima facie evidence of the contents thereof.

(3) The papers, documents, reports, or any other investigatory records of the department are confidential and exempt from the provisions of s. 119.07(1) until such investigation is completed or ceases to be active. For the purpose of this section, an investigation is considered "active" while the investigation is being conducted by the department with a reasonable, good faith belief that it may lead to the filing of administrative, civil, or criminal proceedings. An investigation does not cease to be active if the department is proceeding with reasonable dispatch and there is good faith belief that action may be initiated by the department or other administrative or law enforcement agency.

History--s. 2, ch. 29621, 1955; s. 7, ch. 61-406; ss. 13, 35, ch. 69-106; s. 177, ch. 70-339; s. 3, ch. 76-168; s.1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 2, 71, 72, ch. 82-175; ss. 2, 50, 51, ch. 84-103; ss. 3, 5, ch. 87-321; ss. 2, 46, 47, ch. 90-131; s. 4, ch. 91-429; s.1, ch. 93-119; s. 6, ch. 93-262; s. 2, ch. 96-372; s. 29, ch. 96-388; s. 401, ch. 96-406; s. 216, ch. 98-200; s. 1651, ch. 2003-261.

Note. Former s. 903.38.

648.27 Licenses and appointments; general.

(1) A license may not be issued except in compliance with this chapter, and may not be issued except to an individual. A firm, partnership, association, or corporation, as such, may not be licensed.

(2) For the protection of the people of this state, the department may not issue, renew, or permit to exist any license or appointment except in compliance with this chapter. The department may not issue, renew, or permit to exist a license or appointment for any individual found to be untrustworthy or incompetent who has had his or her eligibility to hold a license or appointment revoked, or who has not established to the satisfaction of the department that he or she is qualified therefor in accordance with this chapter.

(3) The department may propound any reasonable interrogatories to an applicant for a license or appointment under this chapter or on any renewal thereof, relating to his or her qualifications, residence, prospective place of business, and any other matters which are deemed necessary or expedient in order to protect the public and ascertain the qualifications of the applicant. The department may also conduct any reasonable inquiry or investigation it sees fit, relative to the determination of the applicant's fitness to be licensed or appointed or to continue to be licensed or appointed. Upon the request of the department, a law enforcement agency shall inform the department of any specific criminal charge filed against any applicant and the final disposition of such charge.

(4) If upon the basis of the completed application for a license or appointment and such further inquiry or investigation the department deems the applicant to be unfit as to character and background or lacking in one or more of the required qualifications for the license or appointment, the department shall disapprove the application.

(5)(a) The license of a bail bond agent shall continue in force, without further examination unless deemed necessary by the department, until suspended, revoked, or otherwise terminated.

(b) The license of a temporary bail bond agent shall continue in force until suspended, revoked, or otherwise terminated.

(6) The original license issued to a licensee under this chapter shall remain outstanding and in effect for so long as the license represented thereby continues in force as provided in this section. The department may at any time require the licensee to produce his or her department-issued photo identification.

(7) Any person who represents a surety company, whose duties are restricted to bail bonds, and who comes under the definition of "service representative" as provided in s. 626.015 shall be licensed and appointed as a bail bond agent.

(8) An application for a managing general agent's license must be made by an insurer who proposes to employ or appoint an individual, partnership, association, or corporation as a managing general agent. Such application shall contain the information required by s. 626.744, and the applicant shall pay the same fee as a managing general agent licensed pursuant to that section. An individual who is a managing general agent must also be licensed as a bail bond agent. In the case of an entity, at least one owner, officer, or director at each office location must be licensed as a bail bond agent.

(9) If, upon application for an appointment and such investigation as the department may make, it appears to the department that an individual has been actively engaged or is currently actively engaged in bail bond activities without being appointed as required, the department may, if it finds that such failure to be appointed is an error on the part of the insurer or employer so represented, issue or authorize the issuance of the appointment as applied for, but subject to the condition that, before the appointment is issued, all fees and taxes which would have been due had the applicant been so appointed during such current and prior periods, together with a continuation fee for such current and prior terms of appointment, shall be paid to the department. Failure to notify the department within the required time period shall result in the appointing entity being assessed a delinquent fee of \$250. Delinquent fees shall be paid by the appointing entity and shall not be charged to the appointee.

History.--s. 3, ch. 29621, 1955; s. 1, ch. 59-326; s. 8, ch. 61-406; s. 23, ch. 65-269; ss. 13, 35, ch. 69-106; s.177, ch. 70-339; s. 24, ch. 71-86; s. 3, ch. 76-168; s.1, ch. 77-457; s.1, ch. 78-29; s. 21, ch. 78-95; ss. 2, 3, ch. 81-318; ss. 3, 71, 72, ch. 82-175; ss. 5,8, 50, 51, ch. 84-103; s. 23, ch. 85-208; s. 5, ch. 87-321; ss. 5, 46, 47, ch. 90-131; s. 4, ch. 91-429; s. 4, ch. 96-372; s. 43, ch. 2002-206; s. 3, ch. 2002-260; s. 75, ch. 2003-267; s. 66, ch. 2003-281.

Note.Former s. 903.39.

648.279 Scope of license. The issuance of a license pursuant to the provisions of this chapter shall confer upon the holder the right to perform all duties and powers as authorized or conferred by the laws of this state.

History.--s. 5, ch. 96-372.

648.285 Bond agency; ownership requirements.

(1) A person may not own, control, or otherwise have a pecuniary interest in a bail bond agency unless such individual is a licensed and appointed bail bond agent. Any agency that is not in compliance with this subsection shall be subject to the issuance of an immediate final order of suspension of all operations until the agency achieves compliance.

(2) If the owner of a bail bond agency dies or becomes mentally incapacitated, a personal representative or legal guardian may be issued a temporary permit to manage the affairs of the bail bond agency. Such person must appoint or maintain the appointment of a primary bail bond agent, as provided in s. 648.387, and may not engage in any activities as a licensed bail bond agent but must comply with s. 648.387 during the administration of the estate or guardianship. A temporary permit is valid for a maximum of 24 months.

(3) Application for a temporary permit must be made by the personal representative or legal guardian upon statements and affidavits filed with the department on forms prescribed and furnished by it. The applicant must meet the qualifications for licensure as a bail bond agent, except for the residency, examination, education, and experience requirements.

History.--s. 4, ch. 2002-260.

648.29 Build-up funds posted by bail bond agent.

(1) All build-up funds pledged to indemnify an insurer which are posted by a bail bond agent or agency with the insurer must be held in an individual build-up trust account for the agent or agency in an FDIC-approved or FSLIC-approved bank or savings and loan association in this state, jointly in the name of the agent or agency and the insurer or in trust for the agent or agency by the insurer. Such account must remain open to inspection and examination by the department at all times. An accounting of all such funds shall be maintained which designates the amounts collected on each bond written.

(2) Build-up funds may not exceed 40 percent of the premium as established by the agent's contract agreement with the insurer or managing general agent. Build-up funds received shall be immediately deposited to the build-up trust account. Interest on such accounts shall accrue to the bail bond agent.

(3) Build-up funds are maintained as a trust fund created on behalf of a bail bond agent or agency, held by the insurer in a fiduciary capacity to be used to indemnify the insurer for losses and any other agreed-upon costs related to a bail bond executed by the agent. The build-up funds are the sole property of the agent or agency. Upon termination of the bail bond agency or agent's contract and discharge of open bond liabilities on the bonds written, build-up funds are due and payable to the bail bond agent or agency not later than 6 months after final discharge of the open bond liabilities.

(4) Each insurer authorized to write bail bonds in this state and each managing general agent must furnish to the department a certified copy of a statement listing each build-up trust account and the balance therein by March 1 of each year.

5) Insurers must provide copies of build-up fund account bank statements to their agents and agencies.

History.--s. 8, ch. 65-492; s. 177, ch. 70-339; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 71, 72, ch. 82-175; ss. 50, 51, ch. 84-103; s. 5, ch. 87-321; ss. 6, 46, 47, ch. 90-131; s. 4, ch. 91-429; s. 6, ch. 96-372; s. 5, ch. 2002-260.

Note.-Former s. 903.392.

648.295 Reporting and accounting of funds.

(1) All premiums, return premiums, or other funds belonging to insurers or others received by a person licensed pursuant to this chapter in transactions under her or his license are trust funds received by the licensee in a fiduciary capacity, and the licensee must account for and pay the same to the insurer, insured, or other person entitled to such funds.

(2) A licensee shall keep and make available to the department books, accounts, and records as necessary to enable the department to determine whether such licensee is complying with this chapter. A licensee shall preserve the books, accounts, and records pertaining to a premium payment for at least 3 years after making such payment. Records that are preserved by computer or photographic reproduction or records that are in photographic form constitute compliance with this requirement.

(3) Any licensee who unlawfully diverts or appropriates such funds or any portion thereof to her or his own use commits larceny by embezzlement, punishable as provided bylaw.

History.--ss. 7, 47, ch. 90-131; s. 4, ch. 91-429; s. 501, ch. 97-102.

648.30 Licensure and appointment required.

(1) A person may not act in the capacity of a bail bond agent or temporary bail bond agent or perform any of the functions, duties, or powers prescribed for bail bond agents or temporary bail bond agents under this chapter unless that person is qualified, licensed, and appointed as provided in this chapter.

(2) A person may not represent himself or herself to be a bail enforcement agent, bounty hunter, or other similar title in this state.

(3) A person, other than a certified law enforcement officer, may not apprehend, detain, or arrest a principal on a bond, wherever issued, unless that person is qualified, licensed, and appointed as provided in this chapter or licensed as a bail bond agent or bail bond enforcement agent, or holds an equivalent license by the state where the bond was written.

(4) Any person who violates this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.--s. 4, ch. 29621,1955; s. 177, ch. 70-339; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 3, ch. 81- 318; ss. 6, 71, 72, ch. 82-175; ss. 50, 51, ch. 84-103; s. 5, ch. 87-321; ss. 8, 46, 47, ch. 90-131; s. 4, ch. 91-429; s. 7, ch. 96-372; s. 6, ch. 2002-260.

Note.Former s. 903.40.

648.31 Appointment taxes and fees. The department shall collect in advance all appointment taxes and fees for the issuance of any appointment to a bail bond agent or temporary bail bond agent, as provided in s. 624.501.

History.--s. 5, ch. 29621,1955; s. 2, ch. 59-326; ss. 13, 35, ch. 69-106; s. 177, ch. 70-339; s. 3, ch. 76-168; s.1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 7, 71, 72, ch. 82-175; ss. 8, 50, 51, ch. 84-103; s. 5, ch. 87-321; ss. 9, 46, 47, ch. 90-131; s. 204, ch. 90-363; s. 4, ch. 91-429; s.12, ch. 92-324; s. 8, ch. 96-372; s. 7, ch. 2002-260.

Note.Former s. 903.41.

648.315 Number of applications for licensure required. After a license as a bail bond agent has been issued to an individual, the same individual is not required to file another application for a similar license unless:

- (1) Specifically ordered by the department to complete a new application; or
- (2) A period of 48 months transpires between the time the licensee's last limited surety agent or professional bail bond agent's appointment is terminated and the date an application for a similar appointment is received by the department.

History.--ss. 57, 67, ch. 88-166; ss.10, 46, 47, ch. 90-131; s. 4, ch. 91-429; s. 9, ch. 96-372; s. 22, ch. 2001-142.

648.33 Bail bond rates.

- (1) Bail bond rates are subject to the provisions of part I of chapter 627 of the insurance code.
- (2) It is unlawful for a bail bond agent to execute a bail bond without charging a premium therefore, and the premium rate may not exceed or be less than the premium rate as filed with and approved by the office.
- (3) Any person who violates this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.--s. 6, ch. 29621,1955; s. 4, ch. 59-326; ss. 13,35, ch. 69-106; s. 177, ch. 70-339; s. 3, ch. 76-168; s.1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 71, 72, ch. 82-175; ss.10, 50, 51, ch. 84-103; s. 5, ch. 87-321; ss. 11,46,47, ch. 90-131; s. 4, ch. 91-429; s. 10, ch. 96-372; s.1652, ch. 2003-261.

Note.Former s. 903.42.

648.34 Bail bond agents; qualifications.

- (1) An application for licensure as a bail bond agent must be submitted on forms prescribed by the department.
- (2) To qualify as a bail bond agent, it must affirmatively appear at the time of application and throughout the period of licensure that the applicant has complied with the provisions of s. 648.355 and has obtained a temporary license pursuant to such section and:
 - (a) The applicant is a natural person who has reached the age of 18 years and holds a high school diploma or its equivalent.
 - (b) The applicant is a United States citizen or legal alien who possesses work authorization from the United States Immigration and Naturalization Service and is a resident of this state. An individual who is a resident of this state shall be deemed to meet the residence requirement of this paragraph, notwithstanding the existence, at the time of application for license, of a license in the applicant's name on the records of another state as a resident licensee of such other state, if the applicant furnishes a letter of clearance satisfactory to the department that his or her resident licenses have been canceled or changed to a nonresident basis and that he or she is in good standing.

(c) The place of business of the applicant will be located in this state and in the county where the applicant will maintain his or her records and be actively engaged in the bail bond business and maintain an agency accessible to the public which is open for reasonable business hours.

(d) The applicant is vouched for and recommended upon sworn statements filed with the department by at least three reputable citizens who are residents of the same counties in which the applicant proposes to engage in the bail bond business.

(e) The applicant is a person of high character and approved integrity and has not been convicted of or pleaded guilty or no contest to a felony, a crime involving moral turpitude, or a crime punishable by imprisonment of 1 year or more under the law of any state, territory, or country, whether or not a judgment or conviction has been entered.

(f) The applicant has passed any required examination.

(3) The department may collect a fee necessary to cover the cost of a character and credit report made by an established and reputable independent reporting service. The fee shall be deposited to the credit of the Insurance Regulatory Trust Fund. Any information so furnished is confidential and exempt from the provisions of s. 119.07(1).

(4) The applicant shall furnish, with his or her application, a complete set of his or her fingerprints and a recent credential-sized, full face photograph of the applicant. The applicant's fingerprints shall be certified by an authorized law enforcement officer. The department shall not authorize an applicant to take the required examination until the department has received a report from the Department of Law Enforcement and the Federal Bureau of Investigation relative to the existence or nonexistence of a criminal history report based on the applicant's fingerprints.

(5) The department shall conduct a comprehensive investigation of each applicant, including a background check. The investigation of the applicant's qualifications, character, experience, background, and fitness shall include submission of the applicant's fingerprints to the Department of Law Enforcement and the Federal Bureau of Investigation and consideration of any state criminal records, federal criminal records, or local criminal records obtained from these agencies or from local law enforcement agencies.

(6) The provisions of s. 112.011 do not apply to bail bond agents or to applicants for licensure as bail bond agents.

History.--s. 7, ch. 29621, 1955; s. 5, ch. 59-326; s. 9, ch. 61-406; s. 2, ch. 61-119; s. 24, ch. 65-269; ss. 13, 35, ch. 69-106; s. 177, ch. 70-339; s. 3, ch. 76-168; s. 1, ch. 77-96; s. 1, ch. 77-116; s. 61, ch. 77-121, s. 1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 10, 71, 72, ch. 82-175; ss. 11, 50, 51, ch. 84-103; s. 5, ch. 87-321; s. 58, ch. 88-166; s. 82, ch. 89-360; ss. 12, 46, 47, ch. 90-131; s. 4, ch. 91-429; s. 3, ch. 93-119; s. 11, ch. 96-372; s. 403, ch. 96-406; s. 8, ch. 2002-260; s. 1653, ch. 2003-261; s. 76, ch. 2003-267; s. 67, ch. 2003-281.

Note.--Former s. 903.43.

648.35 Professional bail bond agent; qualifications. In addition to the qualifications prescribed in s. 648.34, to qualify as a professional bail bond agent an applicant shall:

(1) File with his or her application for licensure and with each application for renewal or continuation of his or her appointment a detailed financial statement under oath; and

(2) File with his or her application for licensure the rating plan proposed for use in writing bail bonds. Such rating plan must be approved by the office prior to issuance of the license.

History.--s. 8, ch. 29621, 1955; s. 10, ch. 61-406; s. 177, ch. 70-339; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 71, 72, ch. 82-175; ss. 50, 51, ch. 84-103; s. 5, ch. 87-321; ss. 13, 46, 47, ch. 90-131; s. ~ ch. 91-429; s. 12, ch. 96-372; s. 1654, ch. 2003-261.

Note.Former s. 903.44.

648.355 Temporary limited license as limited surety agent or professional bail bond agent; pending examination.

(1) The department may, in its discretion, issue a temporary license as a limited surety agent or professional bail bond agent, subject to the following conditions:

(a) The applicant is a natural person at least 18 years of age and holds a high school diploma or its equivalent.

(b) The applicant is a United States citizen or legal alien who possesses work authorization from the United States Immigration and Naturalization Service and is a resident of this state. An individual who is a resident of this state shall be deemed to meet the residence requirement of this paragraph, notwithstanding the existence, at the time of application for temporary license, of a license in the individual's name on the records of another state as a resident licensee of such other state, if the applicant furnishes a letter of clearance satisfactory to the department that the individual's resident licenses have been canceled or changed to a nonresident basis and that the individual is in good standing.

(c) The applicant is a person of high character and approved integrity and has never been convicted of, or pleaded guilty or no contest to a felony, a crime involving moral turpitude, or a crime punishable by imprisonment of 1 year or more under the law of any state, territory, or country, whether or not a judgment or conviction is entered.

(d) Within 4 years prior to the date of application for a temporary license, the applicant has successfully completed a basic certification course in the criminal justice system, consisting of not less than 120 hours of classroom instruction with a passing grade of 80 percent or higher and has successfully completed a correspondence course for bail bond agents approved by the department.

(e) The applicant must be employed full time at the time of licensure, and at all times throughout the existence of the temporary license, by only one licensed and appointed supervising bail bond agent, who supervises the work of the applicant and is responsible for the licensee's conduct in the bail bond business. The applicant must be appointed by the same insurers as the supervising bail bond agent. The supervising bail bond agent shall certify monthly to the department under oath, on a form prescribed by the department, the names and hours worked each week of all temporary bail bond agents. Filing a false certification is grounds for the immediate suspension of the license and imposition of a \$5,000 administrative fine. The department may adopt rules that establish standards for the employment requirements.

(f) The application must be accompanied by an affidavit verifying proposed employment and a report as to the applicant's integrity and moral character on a form prescribed by the department and executed by the proposed employer.

(g) The applicant must file with the department statements by at least three reputable citizens who are residents of the same counties in which the applicant proposes to engage as a temporary licensee.

(h) The applicant's employer is responsible for the bail bonding acts of any licensee under this section.

(2) All applicable license fees, as prescribed in s. 624.501, must be paid before issuance of the temporary license.

(3) The temporary license shall be effective for 18 months, subject to earlier termination at the request of the employer or if suspended or revoked by the department.

(4) The applicant shall furnish, with the application for temporary license, a complete set of the applicant's fingerprints and a recent credential-sized, full-face photograph of the applicant. The applicant's fingerprints shall be certified by an authorized law enforcement officer. The department shall not issue a temporary license under this section until the department has received a report from the Department of Law Enforcement and the Federal Bureau of Investigation relative to the existence or nonexistence of a criminal history report based on the applicant's fingerprints.

(5) The department may collect a fee necessary to cover the cost of a character and credit report made by an established and reputable independent reporting service. The fee shall be deposited to the credit of the Insurance Regulatory Trust Fund.

(6) After licensure as a temporary licensee for at least 12 months, such licensee may file an application for and become eligible for a regular bail bond agent's license based on the licensee's experience in the bail bond business and education pursuant to paragraph (1)(d) and, if otherwise qualified, take the required bail bond agent's licensure examination. The applicant and supervising bail bond agent must each file an affidavit under oath, on a form prescribed by the department, verifying the required employment of the temporary agent before issuance of the license.

(7) In no event shall a temporary licensee licensed under this section perform any of the functions for which a bail bond agent's license is required after expiration of the temporary license without having passed the written examination as for a regular bail bond agent's license.

(8)(a) A temporary licensee has the same authority as a licensed bail bond agent, including presenting defendants in court; apprehending, arresting, and surrendering defendants to the proper authorities; and keeping defendants under necessary surveillance. However, a temporary licensee must be accompanied by a supervising bail bond agent or an agent from the same agency when apprehending, arresting, or surrendering defendants to authorities.

(b) A temporary licensee may not execute or sign bonds, handle collateral receipts, deliver bonds to appropriate authorities, or operate an agency or branch agency separate from the location of the supervising bail bond agent, managing general agent, or insurer by whom the licensee is employed.

(9) The department shall not issue a temporary bail bond agent's license to any individual who has held such a temporary license in this state within 2 years after the expiration of such temporary bail bond agent's license.

History.--s.13, ch. 96-372; s. 9, ch. 2002-260; s.100, ch. 2003-1; s.1655, ch. 2003-261; s. 77, ch. 2003-267; s. 68, ch. 2003-281.

648.36 Bail bond agent's records. Each licensee must maintain in his or her office such records of bail bonds executed or countersigned by him or her to enable the department to obtain all necessary information concerning such bail bonds for at least 3 years after the liability of the surety has been terminated. Such records shall be open to examination, inspection, and photographic reproduction by the department or an authorized representative of the insurer or managing general agent, or agents of the department, at all times, and the department may at any time require the licensee to furnish to it, in such manner or form as it requires, any information concerning the bail bond business of such licensee.

History.--s.11, ch. 61-406; ss. 13,35, ch. 69-106; s. 177, ch. 70-339; s. 3, ch. 76-168; s.1, ch. 77- 457; ss. 2, 3, ch. 81-318; ss. 12,71,72, ch. 82-175; ss. 13,50,51, ch. 84-103; s. 5, ch. 87-321; s. 83, ch. 89-360; ss. 14,46,47, ch. 90.1.131; s. 4, ch. 91-429; s. 14, ch. 96-372; s. 1756, ch. 97-102; s. 10, ch. 2002-260.

Note.Former s. 903.441.

648.365 Statistical reporting requirements; penalty for failure to comply.

(1) Each insurer and each bail bond agent who writes bail bonds in this state, shall maintain and transmit the following information, based on their Florida bail bond business, to the department or office when requested and shall report the information separately for each company represented but only insurers shall report the information specified in paragraphs (a), (l), and (m): -

(a) Commissions paid.

(b) The number of, and the total dollar amount of, bonds executed.

(c) The number of, and the total dollar amount of, bonds declared forfeited.

(d) The number of, and the total dollar amount of, forfeitures discharged, remitted, or otherwise recovered prior to payment for any reason.

(e) The number of, and the total dollar amount of, forfeitures discharged, remitted, or otherwise recovered prior to payment due to the apprehension of the defendant by the bail bond agent.

(f) The number of, and the total dollar amount of, judgments entered.

(g) The number of, and the total dollar amount of, forfeitures paid and subsequently recovered from the court by discharge or remission or otherwise.

(h) A list of every outstanding or unpaid forfeiture, estreatment, and judgment, with the case number and the name of the court in which such forfeiture, estreatment, or judgment is recorded and the name of each agency or firm that employs the bail bond agent.

(i) The number of, and the total dollar amount of, bonds for which collateral was accepted.

(j) The actual realized value of collateral converted, excluding the cost of converting the collateral.

(k) The cost of converting collateral.

(l) The underwriting gain or loss.

(m) The net investment gain or loss allocated to the flow of funds associated with Florida business.

(n) Such additional information as the department or office may require in order to:

1. Evaluate the reasonableness of rates or assure that such rates are not excessive or unfairly discriminatory.

2. Evaluate the financial condition or trade practices of bail bond agents and sureties executing bail bonds.

3. Evaluate the performance of the commercial bail bond industry in accordance with appropriate criminal justice system goals and standards.

Each bail bond agent shall submit a copy of such information to each insurer he or she represents.

(2) Any person who intentionally fails to provide the information in this section when requested by the department or office, intentionally provides incorrect or misleading information, or intentionally omits any required information commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.--ss.13, 72, ch. 82-175; ss.14, 50, 51, ch. 84-103; s. 5, ch. 87-321; s. 84, ch. 89-360; ss. 15, 46, 47, ch. 90-131; s. 4, ch. 91-429; s. 15, ch. 96-372; s. 1656, ch. 2003-261.

648.38 Licensure examination for bail bond agents; time; place; fees; scope.

(1) Upon approval by the department of a licensure application, the applicant for licensure as a bail bond agent shall appear in person to take a written examination prepared by the department, or by a person designated by the department for that purpose, testing the applicant's ability and qualifications to be a bail bond agent. The department shall determine the minimum performance level required for passage of the examination in order to ensure that the applicant has an adequate level of competence and knowledge of the duties and responsibilities of a bail bond agent.

(2) The department or a person designated by the department shall mail written notice of the time and place of the examination to each applicant for licensure required to take an examination who will be eligible to take the examination as of the examination date. The notice shall be so mailed, postage prepaid, and addressed to the applicant at his or her address shown on his or her application for licensure or at such other address as requested by the applicant in writing filed with the department prior to the mailing of the notice. Notice shall be deemed given when so mailed.

(3) Prior to being permitted to take an examination, each applicant must pay the department or a person designated by the department an examination fee. The fee for examination is not refundable.

(4) The examination shall be held in an adequate and designated examination center in this state.

(5) The applicant must appear in person and take the examination for licensure at the time and place specified in the written notice.

(6) The examination shall be conducted by an employee of the department or a person designated by the department for that purpose.

(7) All examinations shall be given and graded in a fair and impartial manner and without unfair discrimination in favor of or against any particular applicant.

(8) The scope of the examination shall be as broad as the bail bond business.

(9) Failure of the applicant to secure approval of the department does not preclude him or her from applying for licensure as many times as he or she desires, but an application may not be considered by the department within 30 days after the date upon which the department denied the last application.

(10) Any bail bond agent who successfully passes an examination and is subsequently licensed as a bail bond agent must be appointed within 48 months after the date of licensure or be subject to another examination unless failure to be so appointed was due to military service, in which case the period of time in which another examination is not required may, in the department's discretion, be extended to 12 months following the date of discharge from military service, if the military service does not exceed 3 years. An extension of more than 6 years may not be granted under this subsection.

History.--s.10, ch. 29621,1955; s. 7, ch. 59-326; s.13, ch. 61-406; s. 2, ch. 61-119; s. 26, ch. 65- 269; ss. 13,35, ch. 69-106; s. 177, ch. 70-339, s. 3, ch. 76-168; s. 1, ch. 77-457; s. 21, ch. 78-95; ss. 2,3, ch. 81-318; ss. 71, 72, ch. 82-175; ss. 16, 50, 51, ch. 84-103; s. 24, ch. 85-208; s. 5, ch. 87-321; s. 60, ch. 88-166; ss. 17,46,47, ch. 90-131; s. 4, ch. 91-429; s.17, ch. 96-372; s. 23, ch. 2001-142.

Note.Former s. 903.46.

648.381 Reexamination. Any applicant for licensure who has taken an examination and failed to make a passing grade, has failed to appear for the examination, or has failed to take or complete the examination at the time and place specified in the notice of the department may take additional examinations upon the filing of an application for reexamination, with applicable fees. The failure of an applicant to pass an examination or the failure to appear for the examination or to take or complete the examination does not preclude the applicant from taking subsequent examinations. A person who fails an examination three times must retake the 120-hour course and obtain a grade of 80 percent or higher before sitting for the examination again.

History.--ss. 18,47, ch. 90-131; s. 4, ch. 91-429; s. 18, ch. 96-372; s. 11, ch. 2002-260.

648.382 Appointment of bail bond agents and temporary bail bond agents; effective date of appointment.

(1) Each insurer appointing a bail bond agent and each insurer, managing general agent, or bail bond agent appointing a temporary bail bond agent in this state must file the appointment with the department and, at the same time, pay the applicable appointment fees and taxes. A person appointed under this section must hold a valid bail bond agent's or temporary bail bond agent's license.

(2) Prior to any appointment, an appropriate officer or official of the appointing insurer In the case of a bail bond agent or an insurer, managing general agent, or bail bond agent in the case of a temporary bail bond agent must submit:

(a) A certified statement or affidavit to the department stating what investigation has been made concerning the proposed appointee and the proposed appointee's background and the appointing person's opinion to the best of his or her knowledge and belief as to the moral character and reputation of the proposed appointee. In lieu of such certified statement or affidavit, by authorizing the effectuation of an appointment for a licensee, the appointing entity certifies to the department that such investigation has been made and that the results of the investigation and the appointing person's opinion is that the proposed appointee is a person of good moral character and reputation and is fit to engage in the bail bond business;

(b) An affidavit under oath on a form prescribed by the department, signed by the proposed appointee, stating that premiums are not owed to any insurer and that the appointee will discharge all outstanding forfeitures and judgments on bonds previously written. If the appointee does not satisfy or discharge such forfeitures or judgments, the former insurer shall file a notice, with supporting documents, with the appointing insurer, the former agent, and the department, stating under oath that the licensee has failed to timely satisfy forfeitures and judgments on bonds written and that the insurer has satisfied the forfeiture or judgment from its own funds. Upon receipt of such notification and supporting documents, the appointing insurer shall immediately cancel. the licensee's appointment. The licensee may be reappointed only upon certification by the former insurer that all forfeitures and judgments on bonds written by the licensee have been discharged. The appointing insurer or former agent may, within 10 days, file a petition with the department seeking relief from this paragraph. Filing of the petition stays the duty of the appointing insurer to cancel the appointment until the department grants or denies the petition; and (c) Any other information that the department reasonably requires concerning the proposed appointee.

(3) By authorizing the effectuation of an appointment for a licensee, the appointing insurer certifies to the department that the insurer will be bound by the acts of the bail bond agent acting within the scope of his or her appointment, and, in the case of a temporary bail bond agent, the appointing insurer, managing general agent, or bail bond agent, as the case may be, must certify to the department that he or she will supervise the temporary bail bond agent's activities.

(4) Each appointing insurer, managing general agent, or bail bond agent must advise the department in writing within 5 days after receiving notice or learning that an appointee has been arrested for, pled guilty or nolo contendere to, or been found guilty of, a felony or other offense punishable by imprisonment of 1 year or more under the law of any jurisdiction, whether judgment was entered or withheld by the court.

(5) A list of current appointments must be submitted to the department each month but in no case later than 45 days after the date of appointment. All appointments are effective as of the date indicated on the appointment form.

(6) Failure to notify the department within the required time period shall result in the appointing entity being assessed a delinquent fee of \$250. Delinquent fees shall be paid by the appointing entity and shall not be charged to the appointee.

History.--ss.19, 47, ch. 90-131; s. 4, ch. 91-429; s.19, ch. 96-372; s.12, ch. 2002-260; s. 78, ch. 2003-267; s. 69, ch. 2003-281.

648.383 Renewal, continuation, reinstatement, and termination of appointment; bail bond agents.

(1) The appointment of a bail bond agent shall continue in force unless suspended, revoked, or otherwise terminated, subject to a renewal request filed by the appointing entity in the appointee's birth month and every 24 months thereafter. A renewal request must be filed with the department or person designated by the department to administer appointments along with payment of the renewal appointment fee and taxes as prescribed in s. 624.501.

(2) Each appointing person or person designated by the department to administer appointments must file the lists, statement, and information as to each bail bond agent whose appointment is being renewed, accompanied by payment of the applicable renewal fees and taxes as prescribed in s. 624.501.

(3) An appointment may be renewed without penalty if the information required under subsection (2) is received prior to the expiration of the appointment in the licensee's birth month, and such appointment shall be renewed, effective on the first day of the month succeeding the month in which the appointment was scheduled to expire.

(4) If the information required under subsection (2) is received after the renewal date, the appointment may be renewed if the appointment, late filing, continuation, and reinstatement fees accompany the application as required under s. 624.501.

History.--ss. 20, 47, ch. 90-131; s. 4, ch. 91-429; s. 20, ch. 96-372; s. 13, ch. 2002-260; s. 79, ch. 2003-267; s. 70, ch. 2003-281.

648.384 Effect of expiration of appointment; bail bond agents.

(1) Upon the expiration of any person's appointment as provided in s. 648.383, such person is without any authority to engage or attempt to engage in any activity requiring such appointment.

(2) If a bail bond agent fails to maintain an appointment with an insurer during any 48-month period, the bail bond agent may not be granted a reappointment until he or she qualifies as a first-time applicant.

History--ss. 21, 47, ch. 90-131; s. 4, ch. 91-429; s. 21, ch. 96-372; s. 24, ch. 2001-142; s.14, ch. 2002-260.

648.385 Continuing education required; application; exceptions; requirements; penalties.

(1) The purpose of this section is to establish requirements and standards for continuing education courses for persons authorized to write bail bonds in this state.

(2)(a) Each person subject to the provisions of this chapter must complete a minimum of 14 hours of continuing education courses every 2 years in courses approved by the department. Compliance with continuing education requirements is a condition precedent to the issuance, continuation, or renewal of any appointment subject to the provisions of this chapter.

(b) A person teaching any approved course of instruction or lecturing at any approved seminar and attending the entire course or seminar shall qualify for the same number of classroom hours as would be granted to a person taking and successfully completing such course, seminar, or program. Credit shall be limited to the number of hours actually taught unless a person attends the entire course or seminar.

(c) For good cause shown, the department may grant an extension of time during which the requirements imposed by this section may be completed, but such extension of time may not exceed 1 year.

(3)(a) Any bail-related course developed or sponsored by any authorized insurer or recognized bail bond agents' association, or any independent study program of instruction, subject to approval by the department, qualifies for the equivalency of the number of classroom hours assigned to such course by the department. However, unless otherwise provided in this section, continuing education credit may not be credited toward meeting the requirements of this section unless the course is provided by classroom instruction or results in a monitored examination.

(b) Each person or entity sponsoring a course for continuing education credit must furnish, within 30 days after completion of the course, in a form satisfactory to the department or its designee, a written and certified roster showing the name and license number of all persons successfully completing such course and requesting credit, accompanied by the required fee. The department shall refuse to issue, continue, or renew the appointment of any bail bond agent who has not had the continuing education requirements certified unless the agent has been granted an extension by the department.

History--s. 22, ch. 96-372; s. 15, ch. 2002-260.

648.386 Qualifications for prelicensing and continuing education schools and instructors.

(1) SCHOOLS AND CURRICULUM FOR PRELICENSING SCHOOLS. In order to be considered for approval and certification as an approved limited surety agent and professional bail bond agent prelicensing school, such entity must:

(a)1. Offer a minimum of two 120-hour classroom-instruction basic certification courses in the criminal justice system per calendar year unless a reduced number of course offerings per calendar year is warranted in accordance with rules promulgated by the department; or

2. Offer a department-approved correspondence course pursuant to department rules.

(b) Submit a prelicensing course curriculum to the department for approval.

(c) If applicable, offer prelicensing classes which are taught by instructors approved by the department.

(2) SCHOOLS AND CURRICULUM FOR CONTINUING EDUCATION SCHOOLS. In order to be considered for approval and certification as an approved limited surety agent and professional bail bond agent continuing education school, such entity must:

(a) Provide a minimum of three continuing education classes per calendar year. (b) Submit a course curriculum to the department for approval.

(c) Offer continuing education classes which are comprised of a minimum of 2 hours of approved coursework and are taught by an approved supervising instructor or guest lecturer approved by the entity or the supervising instructor.

(3) GEOGRAPHIC REQUIREMENTS. Any provider approved under this section by the department to offer prelicensing courses or continuing education courses shall be required to offer such courses in at least two geographic areas of the state until such time that the department determines that there are adequate providers statewide to provide these courses to applicants and licensees.

(4) INSTRUCTOR'S DUTIES AND QUALIFICATIONS.

(a) Each course must have a supervising instructor who is approved by the department. The supervising instructor shall be present at all classes. The supervising instructor is responsible for:

1. All course instructors. 2. All guest lecturers.

3. The course outlines and curriculum.

4. Certification of each attending limited surety agent or professional bail bond agent. 5. Completion of all required forms.

6. Assuring that the course is approved.

Either the entity or the supervising instructor may approve guest lecturers.

(b) In order to obtain department approval as a supervising instructor, the following qualifications must be met:

1. During the past 15 years, the person must have had at least 10 years' experience as a manager or officer of a managing general agent in this state as prescribed in s. 648.388;

2. During the past ~ 5 years, the person must have had at least 10 years' experience as a manager or officer of an insurance company authorized to and actively engaged in underwriting bail in this state, provided there is a showing that the manager's or officer's experience is directly related to the bail bond industry; or

3. The person has been a licensed bail bond agent in this state for at least 10 years.

(c) In order to obtain department approval as an instructor or guest lecturer, the person must be qualified by education or experience in the specific area of instruction as prescribed by department rules.

(d) A person teaching any approved course of instruction or lecturing at any approved seminar and attending the entire course or seminar shall qualify for the same number of classroom hours as would be granted to a person taking and successfully completing such course, seminar, or program. Credit shall be limited to the number of hours actually taught unless a person attends the entire course or seminar.

(e) The department shall adopt rules necessary to carry out the duties conferred upon it under this section.

History.--s. 23, ch. 96-372; s. 1, ch. 99-303; s. 16, ch. 2002-260; s. 1657, ch. 2003-261. 648.387 Primary bail bond agents; duties.--

(1) The owner or operator of a bail bond agency shall designate a primary bail bond agent for each location, and shall file with the department the name and license number of the person and the address of the location on a form approved by the department. The designation of the primary bail bond agent may be changed if the department is notified immediately. Failure to notify the department within 10 working days after such change is grounds for disciplinary action pursuant to s. 648.45.

(2) The primary bail bond agent is responsible for the overall operation and management of a bail bond agency location, whose responsibilities may include, without limitations, hiring and supervising of all individuals within the location, whether they deal with the public in the solicitation or negotiation of bail bond contracts or in the collection or accounting of moneys. A person may be designated as primary bail bond agent for only one location.

(3) The department may suspend or revoke the license of the owner, operator, and primary bail bond agent if a bail bond agency employs, contracts with, or uses the services of a person who has had a license denied or whose license is currently suspended or revoked. However, a person who has been denied a license for failure to pass a required examination may be employed to perform clerical or administrative functions for which licensure is not required.

(4) An owner, operator, or primary agent may not employ, contract with, or use the services of any person in a bail bond agency who has been charged with, found guilty of, or pled guilty or nolo contendere to a felony or a crime punishable by imprisonment of 1 year or more under the law of any jurisdiction, without regard to whether judgment was entered or withheld by the court.

(5) A bail bond agency location may not conduct surety business unless a primary bail bond agent is designated at all times. The failure to designate a primary agent on a form prescribed by the department, within 10 working days after an agency's inception or a change of primary agent, is a violation of this chapter, punishable as provided in s. 648.45.

History.--s. 17, ch. 2002-260.

648.388 Insurer must appoint managing general agent. Any insurer regularly engaged in the execution of bail bonds in this state shall have a managing general agent in this state to supervise its agents. Upon the appointment of a managing general agent, the insurer shall file with the department an affidavit under oath, executed by the appointee, certifying that the appointee does not owe any unpaid premiums to any insurer and does not have any unpaid judgments or forfeitures in any state. A managing general agent shall maintain an office in this state and maintain all records relating to bonds issued in this state.

History.--ss. 3, 72, ch. 82-175; ss. 50, 51, ch. 84-103; s. 5, ch. 87-321; ss. 22, 46, 47, ch. 90-131; s. 4, ch. 91-429; s. 18, ch. 2002-260.

648.39 Termination of appointment of managing general agents, bail bond agents, and temporary bail bond agents.

(1) An insurer who terminates the appointment of a managing general agent, bail bond agent, or temporary bail bond agent shall, within 10 days after such termination, file written notice thereof with the department together with a statement that it has given or mailed notice to the terminated agent. Such notice filed with the department must state the reasons, if any, for such termination. Information so furnished the department is confidential and exempt from the provisions of s. 119.07(1).

(2) Each insurer shall, within 5 days after terminating the appointment of any managing general agent, bail bond agent, or temporary bail bond agent, give written notice thereof to each clerk of the circuit court and sheriff with whom such person is registered.

(3) An insurer that terminates the appointment of a managing general agent, bail bond agent, or temporary bail bond agent may authorize such person to continue to attempt the arrest and surrender of a defendant for whom a surety bond had been written by the bail bond agent prior to termination and to seek discharge of forfeitures and judgments as provided in chapter 903.

History.--s. 11, ch. 29621, 1955; s. 8, ch. 59-326; ss. 13, 35, ch. 69-106; s. 177, ch. 70-339; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 16, 71, 72, ch. 82-175; ss. 18, 50, 51, ch. 84-103; s. 5, ch. 87-321; s. 61, ch. 88-166; s. 85, ch. 89-360; ss. 23, 46, 47, ch. 90-131; s. 4, ch. 91-429; s. 5, ch. 93-119; s. 24, ch. 96-372; s. 405, ch. 96-406; s. 19, ch. 2002-260.

Note. Former s. 903.47.

648.40 Application for appointment of professional bail bond agents; termination.

(1) Upon licensure as a professional bail bond agent, the licensee shall file an application for appointment with the department together with the required appointment fees and taxes as prescribed in s. 624.501.

(2) Any professional bail bond agent who discontinues writing bail bonds during the period for which he or she is appointed must notify each clerk of the circuit court and each sheriff with whom he or she is registered and the department within 30 days after such discontinuance.

History.--s. 12, ch. 29621, 1955; s. 9, ch. 59-326; ss. 13, 35, ch. 69-106; s. 177, ch. 70-339; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 71, 72, ch. 82-175; ss. 50, 51., ch. 84-103; s. 5, ch. 87-321; ss. 24, 46, 47, ch. 90-131; s. 4, ch. 91-429; s. 25, ch. 96-372.

Note. Former s. 903.48.

648.41 Termination of appointment of temporary bail bond agents. A bail bond agent, insurer, or managing general agent terminating the appointment of a temporary bail bond agent must, within 10 days, file written notice thereof with the department, together with a statement that notice has been given or mailed to the temporary bail bond agent. Such notice filed with the department shall state the reasons, if any, for such termination. Information so furnished the department is confidential and exempt from the provisions of s. 119.07(1).

History.--s. 13, ch. 29621, 1955; s. 10, ch. 59-326; ss. 13, 35, ch. 69-106; s. 177, ch. 70-339; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 18, 71, 72, ch. 82-175; ss. 50, 51, ch. 84-103; s. 25, ch. 85-208; s. 5, ch. 87-321; s. 86, ch. 89-360; ss. 25, 46, 47, ch. 90-131; s. 4, ch. 91-429; s. 6, ch.

93-119; s. 26, ch. 96-372; s. 406, ch. 96-406; s. 20, ch. 2002-260.

Note. Former s. 903.49.

648.42 Registration of bail bond agents. A bail bond agent may not become a surety on an undertaking unless he or she has registered in the office of the sheriff and with the clerk of the circuit court in the county in which the bail bond agent resides. The bail bond agent may register in a like manner in any other county, and any bail bond agent shall file a certified copy of his or her appointment by power of attorney from each insurer which he or she represents as a bail bond agent with each of such officers. Registration and filing of a certified copy of renewed power of attorney shall be performed by April 1 of each odd-numbered year. The clerk of the circuit court and the sheriff shall not permit the registration of a bail bond agent unless such bail bond agent is currently licensed and appointed by the department. Nothing in this section shall prevent the registration of a temporary licensee at the jail for the purposes of enabling the licensee to perform the duties under such license as set forth in this chapter.

History.--s.14, ch. 29621,1955; ss.13, 35, ch. 69-106; s.177, ch. 70-339; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 19,71,72, ch. 82-175; ss. 50, 51, ch. 84-103; s. 1, ch. 86-151; s. 5, ch. 87-321; ss. 26, 46, 47, ch. 90-131; s. 4, ch. 91-429; s. 27, ch. 96-372.

Note.--Former s. 903.50.

648.421 Notice of change of address or telephone number. Each licensee under this chapter shall notify in writing the department, insurer, managing general agent, and the clerk of each court in which the licensee is registered within 10 working days after a change in the licensee's principal business address or telephone number. The licensee shall also notify the department within 10 working days after a change of the name, address, or telephone number of each agency or firm for which he or she writes bonds and any change in the licensee's name, home address, or telephone number.

History.--ss. 20, 72, ch. 82-175; ss. 50, 51, ch. 84-103; s. 5, ch. 87-321; ss. 27, 46, 47, ch. 90-131; s. 4, ch. 91-429; s. 28, ch. 96-372.

648.43 Power of attorney; to be approved by department; filing of copies; notification of transfer bond.

(1) Every insurer engaged in the writing of bail bonds through bail bond agents in this state shall submit and have approved by the department a sample power of attorney, which will be the only form of power of attorney the insurer will issue to bail bond agents in this state.

(2) Every professional bail bond agent who authorizes a licensed professional bail bond agent directly employed and appointed by him or her to sign his or her name to bonds must file a copy of the power of attorney given to the appointed professional bail bond agent with the sheriff and the clerk of the circuit court in the county in which he or she resides and with the department. Such power of attorney shall remain in full force and effect until written notice revoking the power of attorney has been received by the above-named officials.

(3) Every bail bond agent who executes or countersigns a transfer bond shall indicate in writing on the bond the name and address of the referring bail bond agent.

History.--s.15, ch. 29621,1955; s.14, ch. 61-406; ss.13, 35,ch. 69-106; s.177, ch. 70-339; s. 3, ch. 76-168; s.1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 21, 71, 72, ch. 82-175; ss. 23, 50, 51, ch. 84-103; s. 5, ch. 87-321; ss. 28,46,47, ch. 90-131; s. 4, ch. 91-429; s. 29, ch. 96-372.

Note. Former s. 903.51.

648.44 Prohibitions; penalty.

1) A bail bond agent or temporary bail bond agent may not:

a) Suggest or advise the employment of, or name for employment, any particular attorney to represent his or her principal.

b) Directly or indirectly solicit business in or on the property or grounds of a jail, prison, or other place where prisoners are confined or in or on the property or grounds of any court. The term "solicitation" includes the distribution of business cards, print advertising, or other written or oral information directed to prisoners or potential indemnitors, unless a request is initiated by the prisoner or a potential indemnitor. Permissible print advertising in the jail is strictly limited to a listing in a telephone directory and the posting of the bail bond agent's or agency's name, address, and telephone number in a designated location within the jail.

c) Initiate in-person or telephone solicitation after 9:00 p.m. or before 8:00 a.m., in the case of domestic violence cases, at the residence of the detainee or the detainee's family. Any solicitation not prohibited by this chapter must comply with the telephone solicitation requirements in ss. 501.059(2), 501.613, and 501.616(6).

d) Wear or display any identification other than the department issued or approved license or approved department identification, which includes a citation of the licensee's arrest powers, in or on the property or grounds of a jail, prison, or other place where prisoners are confined or in or on the property or grounds of any court.

e) Pay a fee or rebate or give or promise anything of value to a jailer, police officer, peace officer, or committing magistrate or any other person who has power to arrest or to hold in custody or to any public official or public employee in order to secure a settlement, compromise, remission, or reduction of the amount of any bail bond or estreatment thereof.

f) Pay a fee or rebate or give anything of value to an attorney in a bail bond matter, except in defense of any action on a bond.

g) Pay a fee or rebate or give or promise anything of value to the principal or anyone in his or her behalf.

h) Participate in the capacity of an attorney at a trial or hearing of one on whose bond he or she is surety.

i) Loiter in or about a jail, courthouse, or where prisoners are confined.

j) Accept anything of value from a principal for providing a bail bond except the premium and transfer fee authorized by the office, except that the bail bond agent may accept collateral security or other indemnity from the principal or another person in accordance with the provisions of s. 648.442, together with documentary stamp taxes, if applicable. No fees, expenses, or charges of any kind shall be permitted to be deducted from the collateral held or any return premium due, except as authorized by this chapter or rule of the department or commission. A bail bond agent may, upon written agreement with another party, receive a fee or compensation for returning to custody an individual who has fled the jurisdiction of the court or caused the forfeiture of a bond.

k) Write more than one power of attorney per charge on a bond, except in the case of a cosurety, unless the power of attorney prohibits a cosurety.

l) Execute a bond in this state on his or her own behalf.

- m) Execute a bond in this state if a judgment has been entered on a bond executed by the bail bond agent, which has remained unpaid for 35 days, unless the full amount of the judgment is deposited with the clerk in accordance with s. 903.27(5).
- n) Make a statement or representation to a court, unless such statement or representation is under oath. Such statement or representation may not be false, misleading, or deceptive.
- o) Attempt to collect, through threat or coercion, amounts due for the payment of any indebtedness related to the issuance of a bail bond in violation of s. 559.72.
- p) Conduct bail bond business with any person, other than the defendant, on the grounds of the jail or courthouse for the purpose of executing a bond.
- 2) The following persons or classes shall not be bail bond agents, temporary bail bond agents, or employees of a bail bond agent or a bail bond business and shall not directly or indirectly receive any benefits from the execution of any bail bond:
 - a) Jailers or persons employed in any jail.
 - b) Police officers or employees of any police department or law enforcement agency.
 - c) Committing magistrates, employees of a court, or employees of the clerk of any court.
 - d) Sheriffs and deputy sheriffs or employees of any sheriff's department.
 - e) Attorneys.
 - f) Persons having the power to arrest or persons who have authority over or control of federal, state, county, or municipal prisoners.
- 3) A bail bond agent may not sign or countersign in blank any bond, give a power of attorney to, or otherwise authorize, anyone to countersign his or her name to bonds unless the person so authorized is a licensed and appointed bail bond agent directly employed by the bail bond agent giving such power of attorney.
- 4) A place of business, including a branch office, may not be established, opened, or maintained unless it is under the active full-time charge of a licensed and appointed bail bond agent.
- 5) Except as between licensed and appointed bail bond agents, a bail bond agent may not divide with others, or share in, any commissions payable on account of any bail bond.
- 6)(a) No bail bond agency shall advertise as or hold itself out to be a bail bond or surety company.
 - b) Any misleading or false advertisement or deceptive trade practice is prohibited as provided in part X of chapter 626.
 - c) The advertisement of reduced premium rates is prohibited.
 - d) After October 1, 2002, a bail bond agency may not use a name that implies a reduced rate of premium.
 - e)1. A bail bond agent may not make material misrepresentations or omissions in statements or use advertisements that constitute material misrepresentations of facts, create unjust expectations

concerning services, or make improper comparisons.

2. Bail bond agents may not own or advertise under firm names that are false, misleading, or deceptive, or use trade names that imply a connection with any government agency.

3. A bail bond agent may not use any advertisement or advertise under any name that includes the word "free". .

4. A bail bond agent may not advertise under a trade name unless the name and address appear on the agent's letterhead or business cards. Such name must be registered with the department.

(7) Any permissible advertising by a bail bond agent or agency must include the address of record filed with the department.

(8)(a) A person who has been convicted of or who has pleaded guilty or no contest to a felony or a crime involving moral turpitude or a crime punishable by imprisonment of 1 year or more under the law of any state, territory, or country, regardless of whether adjudication of guilt was withheld, may not act in any capacity for a bail bond agency or participate as a director, officer, manager, agent, contractor, or employee of any bail bond agency or office thereof or exercise direct or indirect control in any manner in such agency or office or own shares in any closely held corporation which has any interest in any bail bond business. Such restrictions on engaging in the bail bond business shall continue to apply during a pending appeal.

(b) Any person who violates the provisions of paragraph (a) or any person who knowingly permits a person who has been convicted of or who has pleaded guilty or no contest to a crime as described in paragraph (a) to engage in the bail bond business as prohibited in paragraph (a) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Any law enforcement agency, state attorney's office, court clerk, or insurer that is aware that a bail bond agent or temporary bail bond agent has been convicted of or who has pleaded guilty or no contest to a crime as described in paragraph (a) shall notify the department of this fact.

(d) Upon the filing of an information or indictment against a bail bond agent or temporary bail bond agent, the state attorney or clerk of the circuit court shall immediately furnish the department a certified copy of the information or indictment.

(9)(a) Any person who violates any provisions of paragraph (1)(e), paragraph (1)(f), paragraph (1)(g), paragraph (1)0), or paragraph (1)(n), or subsection (2) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) Any person who violates the provisions of paragraph (1)(a), paragraph (1)(b), paragraph (1)(c), paragraph (1)(h), paragraph (1)(k), paragraph (1)(m), paragraph (1)(0), paragraph (1)(p), subsection (3), subsection (4), or subsection (5) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.--s.16, ch. 29621,1955; s. 177, ch. 70-339; s. 26, ch. 73-334; s. 3, ch. 76-168; s. 1, ch. 77-119; s.1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 22, 71, 72, ch. 82-175; ss. 24, 50, 51, ch. 84-103; s. 26, ch. 85-208; s. 5, ch. 87-321; s. 87, ch. 89-360; ss. 29, 46, 47, ch. 90-131; s. 4, ch. 91-429; s. 30, ch. 96-372; s. 29, ch. 97-93; s.1757, ch. 97-102; s. 2, ch. 99-303; s.10, ch. 2001-64; s. 21, ch. 2002-260; s. 1658, ch. 2003-261.

Note.--Former s. 903.52.

648.441 Furnishing supplies to unlicensed bail bond agent prohibited; civil liability and penalty.

(1) An insurer, managing general agent, bail bond agent, or temporary bail bond agent appointed under this chapter may not furnish to any person any blank forms, applications, stationery, business card, or other supplies to be used in soliciting, negotiating, or effecting bail bonds until such person has received from the department a license to act as a bail bond agent and is appointed by the insurer. This section does not prohibit an unlicensed employee, under the direct supervision and control of a licensed and appointed bail bond agent, from possessing or executing in the bail bond agency, any forms, except for powers of attorney, bond forms, and collateral receipts, while acting within the scope of his or her employment.

(2) Any insurer, licensee, or appointee who furnishes to any bail bond agent or other person not named or appointed by the insurer represented any of the supplies mentioned in subsection (1) and accepts any bail bond business from or writes any bail bond business for such bail bond agent, person, or agency is subject to civil liability to any insured of such insurer or indemnitor to the same extent and in the same manner as if such bail bond agent or other person had been appointed or authorized by the insurer, managing general agent, or bail bond agent to act in its or his or her behalf by the department.

(3) Any person who violates this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, except that the violator is subject to a fine not to exceed \$5,000 in addition to, or in lieu of, any term of imprisonment.

History.--ss. 23, 72, ch. 82-175; s. 140, ch. 83-216; ss. 25, 50, 51, ch. 84-103; s. 5, ch. 87-321; ss. 30, 46, 47, ch. 90-131; s. 4, ch. 91-429; s. 31, ch. 96-372; s. 22, ch. 2002-260.

648.442 Collateral security.

(1) Collateral security or other indemnity accepted by a bail bond agent, except a promissory note or an indemnity agreement, shall be returned upon final termination of liability on the bond. Such collateral security or other indemnity required by the bail bond agent must be reasonable in relation to the amount of the bond. Collateral security may not be used by the bail bond agent for personal benefit or gain and must be returned in the same condition as received. A bail bond agent may accept collateral security in excess of \$50,000 cash per bond, provided any amount over \$50,000 cash is payable to the insurer in the form of a cashier's check, United States postal money order, certificates of deposit, or wire transfer and is remitted to and held by the insurer. A copy of IRS Form 8300 must be retained as part of the defendant's file if it is otherwise required. A quitclaim deed for property may not be taken as collateral. Other acceptable forms of security or indemnity may consist of the following:

(a) A promissory note;

(b) An indemnity agreement;

(c) A real property mortgage in the name of the insurer;

(d) Any Uniform Commercial Code filing; or

(e) Any other type of security approved by the department. The department may approve other security only if, after considering the liquidity and other characteristics of the security, it determines that the security is of a type which increases the probability that the defendant will in fact appear in court or increases the probability that the defendant will be subsequently apprehended by the bail bond agent.

(2) When a bail bond agent accepts collateral, a written, numbered receipt shall be given, and this receipt shall give in detail a full account of the collateral received. The bail bond agent shall also give copies of documents rendered under subsection (1) to the indemnitor.

- (3) Collateral security shall be received and held in the insurer's name by the bail bond agent in a fiduciary capacity and, prior to any forfeiture of bail, shall be kept separate and apart from any other funds or assets of such bail bond agent. When collateral security in excess of \$5,000 cash or its equivalent is received by a bail bond agent, the entire amount shall be immediately forwarded to the insurer. Such collateral security may be placed in an interest-bearing account to accrue to the benefit of the person giving the collateral security, and the bail bond agent, insurer, or managing general agent may not make any pecuniary gain on the collateral security deposited. Any such account shall be in a depository office of a financial institution located in this state. The insurer shall be liable for all collateral received. If the bail bond agent or managing general agent fails to return the collateral to the indemnitor upon final termination of liability on the bond, the surety shall be liable for the collateral and shall return the actual collateral to the indemnitor or, in the event that the surety cannot locate the collateral, the surety shall pay the indemnitor pursuant to the provisions of this section.
- (4) When the obligation of the surety on the bond or bonds has been released in writing by the court, the collateral shall be returned to the rightful owner named in the collateral receipt unless another disposition is provided for by legal assignment of the right to receive the collateral to another person.
- (5) If a forfeiture occurs, the agent or insurer shall give 10 days' written notice of intent to convert the collateral deposit into cash to satisfy the forfeiture to the indemnitor and principal. Notice shall be sent by certified mail to the last known address of the indemnitor and principal.
- (6) The bail bond agent or insurer must convert the collateral to cash within a reasonable period of time and return that which is in excess of the face value of the bond minus the actual and reasonable expenses of converting the collateral to cash. In no event shall these expenses exceed 20 percent of the face value of the bond. However, upon motion and proof that the actual, reasonable expenses exceed 20 percent, the court may allow recovery of the full amount of such actual, reasonable expenses. If there is a remission of a forfeiture, which had required the surety to pay the bond to the court, the surety shall pay to the indemnitor the value of any collateral received for the bond, minus any actual expenses and costs permitted herein.
- (7) No bail bond agent or insurer shall solicit or accept a waiver of any of the provisions of this section or enter into any agreement as to the value of the collateral.
- (8) Prior to the appointment of a bail bond agent who is currently or was previously appointed by another insurer, the bail bond agent must file with the department a sworn and notarized affidavit, on a form prescribed by the department, stating that:
- (a) There has been no loss, misappropriation, conversion, or theft of any collateral being held by the agent in trust for any insurer by which the agent is currently or was previously appointed; and
- (b) All collateral being held in trust by the agent and all records for any insurer by which the agent is currently or was previously appointed are available for immediate audit and inspection by the department, the insurer, or the managing general agent, and will upon demand of the department or insurer be transmitted to the insurer for whom the collateral is being held in trust.
- (9) The department shall establish by rule the form of the affidavit and the statement identifying the amount and source of the security as specified in s. 903.14.
- (10) An indemnity agreement may not be entered into between a principal and either a surety or any agent of the surety, and an application may not be accepted either by a bail bond agent engaged in the bail bond business or by a surety company for a bail bond in which an indemnity agreement is required between a principal and either a surety or any agent of such surety, unless the indemnity agreement reads as follows: "For good and valuable consideration, the undersigned principal agrees to indemnify and hold harmless the surety company or its agent for all losses not otherwise prohibited by law or by rules of the Department of Financial Services."

(11) Any person who violates this section is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.--ss. 24, 72, ch. 82-175; s. 141, ch. 83-216; ss. 26, 50, 51, ch. 84-103; s. 2, ch. 86-151; ss. 1, 5, ch. 87-321; ss. 31, 46, 47, ch. 90-131; s. 4, ch. 91-429; s. 32, ch. 96-372; s. 1, ch. 98-39; s. 23, ch. 2002-260; s. 1659, ch. 2003-261.

648.4425 Notice.--

(1) Upon issuing a bond, the bail bond agent shall provide to the principal and, if applicable, to the party rendering collateral or indemnifying the surety an informational notice which shall include:

(a) A statement noting with particularity the restrictions, if any, placed on the principal as a condition of the bond;

(b) A statement of the bail bond agent's powers relating to the cancellation of the bond and recommitment of the principal; and

(c) The name, address, and telephone number of the department for complaints or inquiries.

(2) Any bail bond agent that surrenders or recommit a defendant must provide the defendant with a statement of surrender on a department-prescribed form. The statement must be signed by the agent and must state the reason for surrender. The statement must be attached to the surrender form with a copy provided to the defendant and a copy maintained by the agent in the defendant's file.

(3) The department shall prescribe forms to administer this section.

History.--ss. 2, 4, ch. 87-321; ss. 32, 46, 47, ch. 90-131; s. 4, ch. 91-429; s. 33, ch. 96-372; s. 20, ch. 2000-370; s. 24, ch. 2002-260.

648.45 Actions against a licensee; suspension or revocation of eligibility to hold a license.

(1) The department shall, upon receipt of an information or indictment, immediately temporarily suspend any license or appointment issued under this chapter when the licensee has been charged with a felony or a crime involving moral turpitude or a crime punishable by imprisonment of 1 year or more under the law of any state, territory, or country. Such suspension shall continue if the licensee has been found guilty of, or has pleaded guilty or no contest to, the crime, whether or not a judgment or conviction has been entered, during a pending appeal. A person may not effect any additional bail bonds after suspension of his or her license or appointment. However, he or she may discharge any liability on bonds effected prior to such suspension.

(2) The department shall deny, suspend, revoke, or refuse to renew any license or appointment issued under this chapter or the insurance code, and it shall suspend or revoke the eligibility of any person to hold a license or appointment under this chapter or the insurance code, for any violation of the laws of this state relating to bailor any violation of the insurance code or if the person:

(a) Lacks one or more of the qualifications specified in this chapter for a license or appointment.

(b) Has made a material misstatement, misrepresentation, or fraud in obtaining a license or appointment, or in attempting to obtain a license or appointment.

(c) Has failed to pass any examination required under this chapter.

(d) Has willfully used, or intended the use, of the license or appointment to circumvent any of the

requirements or prohibitions of this chapter or the insurance code.

- (e) Has demonstrated lack of fitness or trustworthiness to engage in the bail bond business.
- (f) Has demonstrated lack of reasonably adequate knowledge and technical competence to engage in the transactions authorized by the license or appointment.
- (g) Has engaged in fraudulent or dishonest practices in the conduct of business under the license or appointment.
- (h) Is guilty of misappropriation, conversion, or unlawful withholding of moneys belonging to a surety, a principal, or others and received in the conduct of business under a license.

(i) Is guilty of rebating or offering to rebate, or unlawfully dividing or offering to divide, any commission, in the case of a limited surety agent, or premiums, in the case of a professional bail bond agent.

(j) Has willfully failed to comply with or willfully violated any proper order or rule of the department or willfully violated any provision of this chapter or the insurance code.

(k) Has been found guilty of, or has pleaded guilty or no contest to a felony, a crime involving moral turpitude, or a crime punishable by imprisonment of 1 year or more under the law of any state, territory, or country, whether or not a judgment or conviction has been entered.

(l) Has demonstrated lack of good faith in carrying out contractual obligations and agreements.

(m) Has failed to perform a contractual obligation or agreement with a managing general agent or insurer which results in an unrecovered loss due to nonpayment of a forfeiture or judgment by the licensee.

(n) Has failed to return collateral.

(o) 1. Has signed and filed a report or record in the capacity of an agent which the licensee knows to be false or misleading;

2. Has willfully failed to file a report or record required by state or federal law; 3. Has willfully impeded or obstructed such filing; or

4. Has induced another person to impede or obstruct such filing.

Such reports or records shall include only those that are signed in the capacity of a licensed agent. (p) Has demonstrated a course of conduct or practices which indicate that the licensee is incompetent, negligent, or dishonest or that property or rights of clients cannot safely be entrusted to him or her.

(3) The department may deny, suspend, revoke, or refuse to renew any license or appointment issued under this chapter or the insurance code, or it may suspend or revoke the eligibility of any person to hold a license or appointment under this chapter or the insurance code, for any violation of the laws of this state relating to bailor any violation of the insurance code or for any of the following causes:

(a) A cause for which issuance of the license or appointment could have been refused had it then existed and been known to the department.

(b) Cheating on an examination required for licensure or violating test center rules or examination procedures published orally or in writing at the test site by authorized representatives of the examination program administrator. Communication of test center rules and examination procedures must be clearly established and documented.

(c) Violation of any law relating to the business of bail bond insurance or violation of any provision of the insurance code.

(d) Failure or refusal, upon demand, to pay over to any insurer the bail bond agent represents or has represented any money coming into his or her hands which money belongs to the insurer.

(e) Being found to be a source of injury or loss to the public or detrimental to the public interest or being found by the department to be no longer carrying on the bail bond business in good faith.

(f) Interfering or attempting to interfere with the administration of justice.

(4) Any licensee found to have violated 1S. 648.44(1)(b), (c), or (h) shall, at a minimum, be suspended for a period of 3 months. A greater penalty, including revocation, shall be imposed if there is a willful or repeated violation of 1s. 648.44(1)(b), (c), or (h), or the licensee has committed other violations of this chapter.

(5) Grounds for revocation of the license or appointment exist when any licensee is adjudged bankrupt or insolvent.

(6) Suspension, revocation, and refusal to renew a license or appointment issued under this chapter is subject to the procedures provided in s. 648.46.

History.--s.17, ch. 29621,1955; s. 3, ch. 57-63; s. 15, ch. 61-406; ss.13, 35, ch. 69-106; s. 177, ch. 70-339; s. 25, ch. 71-86; s.167, ch. 73-333; s. 3, ch. 76-168; s.1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 25,71,72, ch. 82-175; s.142, ch. 83-216; ss. 27, 50, 51, ch. 84-103; s. 5, ch. 87-321; ss. 33, 46,47, ch. 90-131; s. 4, ch. 91-429; s. 34, ch. 96-372; s. 30, ch. 97-93; s. 25, ch. 2002-260.

1 Note.--Redesignated as s. 648.44(1)(b), (d), or (i) by s. 21, ch. 2002-260.

Note.--Former s. 903.53.

648.46 Procedure for disciplinary action against licensees.

(1) The department shall investigate the actions of a licensee when it receives a written complaint containing allegations of fact that, if true, show that a violation of this chapter, or a rule adopted pursuant thereto, has occurred. The department shall also investigate a licensee if the department is made aware that a possible violation of this chapter, or a rule adopted pursuant thereto, has occurred. If the department determines that a violation of this chapter or a violation of a rule adopted pursuant to this chapter has occurred, the department may file a formal complaint against the licensee and prosecute under chapter 120.

(2) Any proceeding for the purpose of summary suspension of a license pursuant to s. 120.60(6) shall be conducted by the department, which shall issue the final summary order.

(3) The complaint and all information obtained pursuant to the investigation of the department are confidential and exempt from the provisions of s. 119.07(1) until such investigation is completed or ceases to be active. For the purpose of this section, an investigation is considered "active" while the investigation is being conducted by the department with a reasonable, good faith belief that it may lead to the filing of administrative, civil, or criminal proceedings. An investigation does not cease to be

active if the department is proceeding with reasonable dispatch and there is good faith belief that action may be initiated by the department or other administrative or law enforcement agency.

History.--s.18, ch. 29621, 1955; s.16, ch. 61-406; ss.13, 35, ch. 69-106; s.177, ch. 70-339; s. 26, ch. 71-86; s. 3, ch. 76-168; s.1, ch. 77-457; s. 21, ch. 78-95; ss. 2, 3, ch. 81-318; ss. 26, 71, 72, ch. 82-175; ss. 28, 50, 51, ch. 84-103; s. 5, ch. 87-321; ss. 34, 46, 47, ch. 90-131; s. 4, ch. 91-429; s. 7, ch. 93-119; s. 35, ch. 96-372; s. 407, ch. 96-406; s. 289, ch. 96-410.

Note.--Former s. 903.54.

648.48 Witnesses and evidence.

(1) With respect to the subject of any examination or investigation being conducted by the department, the agent or examiner appointed by the department may administer oaths, examine and cross-examine witnesses, and receive oral and documentary evidence and shall have the power to subpoena witnesses and compel their attendance and testimony and require by subpoena the production of documents or other evidence which is deemed relevant to the inquiry.

(2) If any person refuses to comply with any such subpoena or to testify as to any matter concerning which he or she may be lawfully interrogated, the Circuit Court for Leon County or of the county wherein such examination or investigation is being conducted, or of the county wherein such person resides, on the application of the department may issue an order requiring such person to comply with the subpoena and to testify; and any failure to obey such an order of the court may be punished by the court as a contempt thereof.

(3) Subpoenas shall be served and proof of such service made in the same manner as if issued by a circuit court. Witness fees and mileage, if claimed, shall be allowed the same as for testimony in a circuit court.

(4) Any person willfully testifying falsely under oath as to any matter material to any such examination, investigation, or hearing shall upon conviction thereof be guilty of perjury and shall be punished accordingly.

(5) If any person asks to be excused from attending or testifying or from producing any documents or other evidence in connection with any examination, hearing, or investigation being conducted by the department or its examiner on the ground that the testimony or evidence required of him or her may tend to incriminate him or her or subject him or her to a penalty or forfeiture and shall notwithstanding be directed to give such testimony or produce such evidence, he or she must, if so directed by the department and the Department of Legal Affairs, nonetheless comply with such direction, but he or she shall not thereafter be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he or she may have so testified or produced evidence; and no testimony so given or evidence produced shall be received against him or her upon any criminal action, investigation, or proceeding. However, no person so testifying shall be exempt from prosecution or punishment for any perjury committed by him or her in such testimony, and the testimony or evidence so given or produced shall be admissible against him or her upon any criminal action, investigation, or proceeding concerning such perjury; nor shall he or she be exempt from the refusal, suspension, or revocation of any license, permission, or authority conferred, or to be conferred, pursuant to this chapter.

(6) Any such individual may execute, acknowledge, and file in the office of the department a statement expressly waiving such immunity or privilege in respect to any transaction, matter, or thing specified in such statement; and thereupon the testimony of such individual or such evidence in relation to such transaction, matter, or thing may be received or produced before any judge or justice, court, tribunal, grand jury, or otherwise; and, if so received or produced, such individual shall not be entitled to any immunity or privileges on account of any testimony he or she may so give or evidence so produced.

(7) Any person who refuses or fails, without lawful cause, to testify relative to the affairs of any person when subpoenaed and requested by the department to so testify commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.--s. 18, ch. 61-406; ss. 11, 13, 35, ch. 69-106; s. 177, ch. 70-339; s. 666, ch. 71-136, s. 3, ch. 76-168; s. 1, ch. 77-457; s. 21, ch. 78-95; ss. 2, 3, ch. 81-318; ss. 27, 71, 72, ch. 82-175; ss. 29, 50, 51, ch. 84-103; s. 5, ch. 87-321; ss. 35, 46, 47, ch. 90-131; s. 4, ch. 91-429; s. 36, ch. 96-372.

Note.--Former s. 903.542.

648.49 Duration of suspension or revocation.

(1) The department shall, in its order suspending a license or appointment or the eligibility to hold a license or appointment, specify the period during which the suspension is to be in effect, but such period may not exceed 2 years. The license or appointment and eligibility to hold a license or appointment shall remain suspended during the period so specified, subject, however, to any rescission or modification of the order by the department, or modification or reversal thereof by the court, prior to expiration of the suspension period. A license or appointment which has been suspended may not be reinstated, nor shall the eligibility to hold such license or appointment be reinstated, except upon request for such reinstatement, but the department may not grant such reinstatement if it finds that the circumstances for which the license or appointment was suspended still exist or are likely to recur. In each case involving suspension, the department has the discretion to require the former licensee to successfully complete a basic certification course in the criminal justice system, consisting of not less than 80 hours approved by the department.

(2) Any individual who is licensed under any license which has been revoked or who has had his or her eligibility to hold a license revoked by the department may not apply for another license under this chapter.

(3) During the period of suspension, or after revocation of the license, the former licensee may not engage in or attempt to profess to engage in any transaction or business for which a license or appointment is required under this chapter. Any person who violates this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) Upon the termination for cause, surrender, suspension pursuant to s. 648.45(2), or revocation of a bail bond agent's license, the appointing insurer or managing general agent shall immediately designate a licensed and appointed bail bond agent to administer all bail bonds previously written by the licensee.

History.--s. 19, ch. 61-406; ss. 13, 35, ch. 69-106; s. 177, ch. 70-339; s. 27, ch. 71-86; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 28, 71, 72, ch. 82-175; ss. 30, 50, 51, ch. 84-103; s. 3, ch. 86-151; s. 5, ch. 87-321; ss. 36, 46, 47, ch. 90-131; s. 4, ch. 91-429; s. 37, ch. 96-372.

Note.--Former s. 903.543.

648.50 Effect of suspension, revocation upon associated licenses and licensees.

(1) Upon the suspension, revocation, or refusal to renew or continue any license or appointment or the eligibility to hold a license or appointment of a bail bond agent or temporary bail bond agent, the department shall at the same time likewise suspend or revoke all other licenses or appointments and the eligibility to hold any other such licenses or appointments which may be held by the licensee under the Florida Insurance Code.

(2) In case of the suspension or revocation of the license or appointment, or the eligibility to hold a license or appointment, of any bail bond agent, the license, appointment, or eligibility of any and all

bail bond agents who are members of a bail bond agency, whether incorporated or unincorporated, and any and all temporary bail bond agents or runners employed by such bail bond agency, who knowingly are parties to the act which formed the ground for the suspension or revocation may likewise be suspended or revoked.

(3) No person whose license as a bail bond agent or temporary bail bond agent has been revoked or suspended shall be employed by any bail bond agent, have any ownership interest in any business involving bail bonds, or have any financial interest of any type in any bail bond business during the period of revocation or suspension.

History.--s. 20, ch. 61-406; ss. 13,35, ch. 69-106; s. 177, ch. 70-339; s. 28, ch. 71-86; s. 3, ch. 76-168; s.1, ch. 77-457; s. 21, ch. 78-95; ss. 2, 3, ch. 81-318; ss. 29, 71, 72, ch. 82-175; ss. 50, 51, ch. 84-103; s. 5, ch. 87-321; ss. 37,46,47, ch. 90-131; s. 4, ch. 91-429; s. 38, ch. 96-372; s. 80, ch. 2003-267; s. 71, ch. 2003-281.

Note.--Former s. 903.544.

648.51 Surrender of license.

(1) Though issued to a licensee, all licenses issued under this chapter are at all times the property of the state, and upon notice of any suspension, revocation, refusal to renew, failure to renew, expiration, or other termination of the license, such license shall no longer be in force and effect.

(2) This section shall not be deemed to require the surrender to the department of any license unless such surrender has been requested by the department.

History.--s. 21, ch. 61-406; ss. 13,35, ch. 69-106; s. 177, ch. 70-339; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 71, 72, ch. 82-175; ss. 32, 50, 51, ch. 84-103; s. 5, ch. 87-321; ss. 38, 46,47, ch. 90-131; s. 4, ch. 91-429; s. 39, ch. 96-372.

Note.--Former s. 903.545.

648.52 Administrative fine.

(1) If, pursuant to the procedure described in s. 648.46, the department finds that one or more causes exist for the suspension of, revocation of, or refusal to renew or continue any license or appointment issued under this chapter, the department may, in its discretion, in lieu of or in addition to such suspension, revocation, or refusal, and except on a second offense, impose upon the licensee an administrative penalty in an amount up to \$5,000 or, if the department has found willful misconduct or willful violation on the part of the licensee, \$20,000. The administrative penalty may, in the discretion of the department, be increased by an amount equal to any commissions or other pecuniary benefits received by or accruing to the credit of the licensee in connection with any transaction related to the grounds for suspension, revocation, or refusal.

(2) The department may allow the licensee a reasonable period, not to exceed 30 days, within which to pay to the department the amount of the penalty so imposed. If the licensee fails to pay the penalty in its entirety to the department within the period so allowed, the licenses or appointments of the licensee shall stand suspended, revoked, or renewal or continuation refused, as the case may be, upon expiration of such period.

History.--s. 22, ch. 61-406; s. 2, ch. 61-119; s. 30, ch. 65-269; ss. 13, 35, ch. 69-106; s. 177, ch. 70-339; s. 3, ch. 76-168; s.1, ch. 77-457; s. 21, ch. 78-95; ss. 2, 3, ch. 81-318; ss. 31, 71, 72, ch. 82-175; ss. 33, 50, 51, ch. 84-103; s. 5, ch. 87-321; ss. 39, 46, 47, ch. 90-131; s. 4, ch. 91-429; s. 26, ch. 2002-260.

Note.--Former s. 903.546.

648.525 Civil assessment.

(1) The department may initiate a civil administrative proceeding against a licensee who fails to comply with the solicitation requirements of this chapter.

(2) The burden of proof in such proceedings is by a preponderance of the evidence. Upon a finding that a licensee has failed to properly comply, an assessment of \$5,000 shall be ordered for each act of improper solicitation which assessment shall be payable within 30 days after the date of the final order.

(3) The civil assessment is a civil remedy for conduct that harms the consuming public and that is considered an unfair method of competition, and is not a penalty or administrative fine. Remedies under this section are in addition to any other remedies available at law.

History.--s. 27, ch. 2002-260.

648.53 Probation.

(1) If, pursuant to the procedure described in s. 648.46, the department finds that one or more causes exist for a fine, or for the suspension of, revocation of, or refusal to renew or continue any license or appointment issued under this chapter, the department may, in lieu of or in addition to such suspension, revocation, or refusal or in connection with any administrative monetary penalty imposed under s. 648.52, place the offending licensee on probation for a period, not to exceed 2 years, as specified by the department in its order.

(2) As a condition to such probation or in connection therewith, the department may specify in its order reasonable terms and conditions to be fulfilled by the probationer during the probation period. If during the probation period the department has good cause to believe that the probationer has violated such terms and conditions or any of them, it shall forthwith suspend, revoke, or refuse to renew or continue the license or appointment of the probationer, as upon the original causes referred to in subsection (1).

History.--s. 23, ch. 61-406; ss. 13,35, ch. 69-106; s. 177, ch. 70-339; s. 3, ch. 76-168; s. 1, ch. 77-457; s. 21, ch. 78-95; ss. 2,3, ch. 81-318; ss. 32, 71, 72, ch. 82-175; ss. 34, 50, 51, ch. 84-103; s. 5, ch. 87-321; ss. 40, 46, 47, ch. 90-131; s. 4, ch. 91-429.

Note.--Former s. 903.547.

648.55 All bail bond agents of same agency; licensed by same companies.All bail bond agents who are members of the same agency, partnership, corporation, or association shall be appointed to represent the same companies. If any member of such agency, partnership, corporation, or association is licensed and appointed as a professional bail bond agent, all members thereof shall be so licensed and appointed. It is the responsibility of each insurer to require that each bail bond agent in an agency is appointed to represent that particular insurer.

History.--s. 20, ch. 29621,1955; s. 4, ch. 57-63; s. 177, ch. 70-339; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 71, 72, ch. 82-175; ss. 50, 51, ch. 84-103; s. 5, ch. 87-321; ss. 41, 46, 47, ch. 90-131; s. 4, ch. 91-429; s. 40, ch. 96-372.

Note.--Former s. 903.56.

648.57 Penalty. Any person or corporation, who is found guilty of violating any of the provisions of this chapter commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, unless a more severe criminal penalty is otherwise provided in this chapter with respect to

the specific violation.

History.--s. 22, ch. 29621, 1955; s. 177, ch. 70-339; s. 667, ch. 71-136; s. 3, ch. 76-168; s. 1, ch. 77-457; ss. 2, 3, ch. 81-318; ss. 71, 72, ch. 82-175; ss. 50, 51, ch. 84-103; s. 5, ch. 87-321; ss. 42, 46, 47, ch. 90-131; s. 4, ch. 91-429.

Note.--Former s. 903.58.

648.571 Failure to return collateral; penalty.--

(1) A bail bond agent who has taken collateral or an insurer or managing general agent who holds collateral as security for a bail bond shall, upon demand, make a written request for a discharge of the bond to be delivered to the surety or the surety's agent. A copy of the written request for discharge must be given to the indemnitor or the person making the request for the collateral, and a copy must be maintained in the agent's file. If a discharge is provided to the surety or the surety's agent pursuant to chapter 903, the collateral shall be returned to the indemnitor within 21 days after the discharge is provided.

(2) Upon demand, following the written request for discharge and upon diligent inquiry by the surety or surety's agent to determine whether the bond has been discharged, the failure of the court to provide a written discharge to the surety or surety's agent pursuant to chapter 903 within 7 days automatically cancels the bond, and the collateral shall be returned to the indemnitor within 21 days after the written request for discharge.

(3) (a) Fees or charges other than those provided in this chapter or by rule of the department or commission may not be deducted from the collateral due.

(b)1. The bail bond agent may charge the credit card fee imposed in connection with the use of the credit card for payment of collateral if the fee is clearly shown on the collateral receipt and is acknowledged by the person tendering the credit card.

2. The prevailing schedule of credit card fees must be conspicuously posted in the lobby of the bail bond agency, and a copy must be provided to the person tendering the credit card.

(c) Allowable expenses incurred in apprehending a defendant because of a bond forfeiture or judgment under s. 903.29 may be deducted if such expenses are accounted for. The failure to return collateral under these terms is punishable as follows:

1. If the collateral is of a value less than \$100, as provided in s. 775.082(4)(a).

2. If the collateral is of a value of \$100 or more, as provided in s. 775.082(3)(d).

3. If the collateral is of a value of \$1,500 or more, as provided in s. 775.082(3)(c).

4. If the collateral is of a value of \$10,000 or more, as provided in s. 775.082(3)(b).

(4) In addition to the criminal penalties and any other penalties provided in this chapter, the department shall impose against any person violating this section an administrative fine of five times the dollar amount of the collateral.

History.--ss. 36, 72, ch. 82-175; ss. 50, 51, ch. 84-103; s. 5, ch. 87-321; ss. 43, 46, 47, ch. 90-131; s. 4, ch. 91-429; s. 41, ch. 96-372; s. 28, ch. 2002-260; s. 1660, ch. 2003-261.

648.58 Injunctive proceedings.--In addition to the penalties and other enforcement provisions of this chapter, if any person violates this chapter or any rule adopted pursuant to this chapter, the

department may initiate a proceeding for injunction in the circuit court of the county where such person resides or has his or her principal place of business, and may apply for such temporary and permanent orders as the department deems necessary to restrain such person from committing such violation.

History.--ss. 44, 47, ch. 90-131; s. 4, ch. 91-429; s. 502, ch. 97-102.

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North Carolina Statutes - Insurance Laws
Chapter 58, Article 71 Bail Bondsmen And Runners

58-71-1 Definitions

The following words when used in this Article shall have the following meanings:

- (1) "Accommodation bondsman" is a natural person who has reached the age of 18 years and is a bona fide resident of this State and who, aside from love and affection and release of the person concerned, receives no consideration for action as surety and who endorses the bail bond after providing satisfactory evidences of ownership, value and marketability of real or personal property to the extent necessary to reasonably satisfy the official taking bond that such real or personal property will in all respects be sufficient to assure that the full principal sum of the bond will be realized in the event of breach of the conditions thereof. "Consideration" as used in this subdivision does not include the legal rights of a surety against a principal by reason of breach of the conditions of a bail bond nor does it include collateral furnished to and securing the surety so long as the value of the surety's rights in the collateral do not exceed the principal's liability to the surety by reason of a breach in the conditions of said bail bond.
- (2) "Bail bond" shall mean an undertaking by the principal to appear in court as required upon penalty of forfeiting bail to the State in a stated amount; and may include an unsecured appearance bond, a premium secured appearance bond, an appearance bond secured by a cash deposit of the full amount of the bond, an appearance bond secured by a mortgage pursuant to G.S. 58-74-5, and an appearance bond secured by at least one surety. A bail bond may also include a bond securing the return of a motor vehicle subject to forfeiture in accordance with G.S. 20-28.3(e).
- (3) "Bail bondsman" shall mean a surety bondsman, professional bondsman or an accommodation bondsman as hereinafter defined.
- (4) "Commissioner" shall mean the Commissioner of Insurance.
- (5) "Insurer" shall mean any domestic, foreign, or alien surety company which has qualified generally to transact surety business and specifically to transact bail bond business in this State.

- (6) "Obligor" shall mean a principal or a surety on a bail bond.
- (7) "Principal" shall mean a defendant or witness obligated to appear in court as required upon penalty of forfeiting bail under a bail bond or a person obligated to return a motor vehicle subject to forfeiture in accordance with G.S. 20-28.3(e).
- (8) "Professional bondsman" shall mean any person who is approved and licensed by the Commissioner and who pledges cash or approved securities with the Commissioner as security for bail bonds written in connection with a judicial proceeding and receives or is promised money or other things of value therefor.
- (9) "Runner" shall mean a person employed by a bail bondsman for the purpose of assisting the bail bondsman in presenting the defendant in court when required, or to assist in apprehension and surrender of defendant to the court, or keeping defendant under necessary surveillance, or to execute bonds on behalf of the licensed bondsman when the power of attorney has been duly recorded. "Runner" does not include, however, a duly licensed attorney-at-law or a law-enforcement officer assisting a bondsman.
- (10) "Surety" shall mean one who, with the principal, is liable for the amount of the bail bond upon forfeiture of bail.
- (11) "Surety bondsman" means any person who is licensed by the Commissioner as a surety bondsman under this Article. is appointed by an insurer by power of attorney to execute or countersign bail bonds for the insurer in connection with judicial proceedings, and receives or is promised consideration for doing so.

HISTORY Laws 1963, c. 1225, 01; 1975, c. 619, 01; 1995 (Reg. Sess., 1996), c. 726, 0 1; 1998-182~ 016. eff. 12-1-98.

58.71-5 Powers and duties of commissioner

- (a) The Commissioner shall have full power and authority to administer the provisions of this Article, which regulates bail bondsmen and runners and to that end to adopt and promulgate rules and regulations to enforce the purposes and provisions of this Article. Subject to the provisions of the State Personnel Act, the Commissioner may employ and discharge such employees, examiners, investigators and such other assistants as shall be deemed necessary, and he shall prescribe their duties.

(b) Any' written instrument purporting to be a copy of any action, proceeding, or finding of fact by the Commissioner, or any record of the Commissioner authenticated under the head of the Commissioner by the seal of his office shall be accepted by all the courts of this State as prima facie evidence of the contents thereof.

HISTORY Laws 1963, c. 1225, 02; 1975, c. 619, 01.

58-71-10 Liability for bond

No undertaking shall be invalid, nor shall any person be discharged from his undertaking, nor a forfeiture thereof be stayed. nor shall judgment thereon be stayed, set aside or reversed, the collection of any such judgment be barred or defeated by reason of any defect of form, omission or recital or of condition, failure to note or record the default of any principal or surety, or because of any other irregularity or because the undertaking was entered into on Sunday or other holiday, if it appears from the tenor of the undertaking before what magistrate or at what court the principal was bound to appear, and that the official before whom it was entered into was legally authorized to take it and the amount of bail is stated.

The liability of a person on an undertaking shall not be affected by reason of the lack of any qualifications, sufficiency or competency provided in the criminal procedure law, or by reason of any other agreement ",whether or not the agreement is expressed in the undertaking, or because the defendant has not joined in the undertaking.

HISTORY Laws 1963, c. 1225, 03; 1975, c. 619~ 01.

58-71-15 Qualifications

Each and every surety for the release of a person on bail shall be qualified as:

- (1) An insurer and represented by a surety bondsman or bondsmen; or
- (2) A professional bondsman; or
- (3) An accommodation bondsman.

HISTORY Laws 1963, c. 1225, 04; 1971, c. 1231,0 1; 1975, c. 619,01.

58- 71-20 Early surrender of defendant

At any time before there has been a breach of the undertaking in any type of bail or fine and cash bond the surety may surrender the defendant to the official to whose custody the defendant was committed at the time bail was taken, or to the official into whose custody the defendant would have been given had he been committed; in such case the full premium shall be returned within 72 hours after the surrender. The defendant may be surrendered without the return of premium for the bond if the defendant does any of the following:

- 1) Willfully fails to pay the premium to the surety or willfully fails to make a premium payment under the agreement specified in G.S. 58-71.167.
- 2) Changes his or her address without notifying the surety before the address change.
- (3) Physically hides from the surety.
- (4) Leaves the State without the permission of the surety.
- (5) Violates any order of the court.

HISTORY Laws 1963, c. 1225, 05; 1975, c. 619, 01; 1998-211,030, eff. 11-1-98.

58-71.25 Surrender of defendant; release of surety

The person desiring to make a surrender of the defendant shall procure a certified copy of the undertakings and deliver them together with the defendant to the official in whose custody the defendant was at the time bail was taken, or to the official into whose custody he would have been given had he been committed, who shall detain the defendant in his custody thereon, as upon a commitment, and by a certificate in writing acknowledge the surrender.

Upon the presentation of certified copy of the undertakings and the certificate of the official, the court before which the defendant has been held to answer or the court in which the preliminary examination, warrant, indictment information or appeal as the case may be, is pending, shall upon notice of three days given by the person making the surrender to the prosecuting officer of the court having jurisdiction of the offense, together with a copy of the undertakings and certificate, order that the obligors be exonerated from liability of their undertakings, and, if money or bonds have been deposited as bail, that such money or bonds be refunded.

HISTORY Laws 1963, c. 1225, 6; 1975, c. 619, 1.

58-71-30 Arrest of defendant

For the purpose of surrendering the defendant, the surety may arrest him before the forfeiture of the undertaking, or by his written authority endorsed on a certified copy of the undertaking, may request any judicial officer to order arrest of the defendant.

HISTORY Laws 1963, c. 1225,07; 1975, c. 619,01.

58-71-35 Bail forfeiture; remission of judgment

(a) Except for bonds issued to secure the return of a motor vehicle subject to forfeiture in accordance with G.S. 20-28.3(e), the procedure for forfeiture of bail shall be that provided in Article 26 of Chapter 15A of the General Statutes and all provisions of that Article shall continue in full force and effect.

(b) At any time before execution is issued on a judgment of forfeiture against a principal or his surety, the court may direct that the judgment be remitted in whole or in part, upon such conditions as the court may impose, if it appears that justice requires the remission of part or all of the judgment.

HISTORY Laws 1963, c. 1225,08; 1975, c. 619, 01; 1998-182,017, eff. 12-1-98.

58.71-40 Licenses; applications

(a) No person shall act in the capacity of a bail bondsman or runner or perform any of the functions, duties, or powers prescribed for bail bondsmen or runners under the provisions of this Article unless that person shall be qualified and (except as regards an accommodation bondsman) licensed in accordance with the provisions of this Article. No license shall be issued to a professional bondsman or runner except to an individual natural person.

(b) The applicant shall apply for a license on forms prepared and supplied by the Commissioner and the Commissioner may propound any reasonable interrogatories to an applicant for a license under this Article relating to the applicant's qualifications, residence, prospective place of business, and any other matters which, in the opinion of the Commissioner, are deemed necessary in order to protect

the public and ascertain the qualifications of the applicant. The Commissioner may also conduct any reasonable inquiry or investigation relative to the determination of the applicant's fitness to be licensed or to continue to be licensed.

(c) A person whose application is denied may reapply, but the Commissioner may not consider more than one application submitted by the same person within any one-year period.

(d) When a license is issued under this section~ the Commissioner shall issue a picture identification card, of design, size, and content approved by the Commissioner, to the licensee. Each licensee must carry this card at all times when working in the scope of the licensee's employment. A licensee whose license is terminated must surrender the identification card to the Commissioner within 10 working days of the termination.

HISTORY Laws 1963, c. 1225,09; 1975, c. 619,01; 1995 (Reg. Sess., 1996), c. 726, 02, eff. 1-1-97.

58- 71-45 License expiration

A license issued to a bail bondsman or to a runner authorizes the licensee to act in that capacity until the license is suspended or revoked. Upon the suspension or revocation of a license, the licensee shall return the license to the Commissioner. A license of a bail bondsman and a license of a runner shall be renewed on July 1 of each year upon payment of the applicable renewal fee under 0.8.58-71-75. The Commissioner is not required to print renewal licenses. After notifying the Commissioner in writing, a professional bondsman who employs a runner may cancel the runner's license and the runner's authority to act for the professional bondsman.

HISTORY Laws 1963, c. 1225,010; 1975, c. 619,01; 1995 (Reg. Sess. 1996), c. 726,03, eff. 1-1-97.

58.71.50 Qualification for license

(a) An applicant for a license as a bail bondsman or runner shall furnish tile Commissioner with a complete set of the applicant's fingerprints and a recent passport size full-face photograph of the applicant. The applicant's fingerprints shall be certified by an authorized law-enforcement officer. The fingerprints of every applicant shall be forwarded to the State Bureau of Investigation for a search of the applicant's criminal history record file, if any. If warranted, the

State Bureau of Investigation shall forward a set of the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. An applicant shall pay the cost of the State and any national criminal history record check of the applicant.

(b) Every applicant for a license under this Article as a bail bondsman or runner must meet all of the following qualifications:

(1) Be 18 years of age or over.

(2) Be a resident of this State.

(3) Repealed. Laws 1998-211,023, eff. 11-1-98.

(4) Have knowledge, training, or experience of sufficient duration and extent to provide the competence necessary to fulfill the responsibilities of a licensee.

(5) Have no outstanding bail bond obligations.

(6) Have no current or prior violations of any provision of this Article or of Article 26 of Chapter ISA of the General Statutes or of any similar provision of law of any other state.

(7) Not have been in any manner disqualified under the laws of this State or any other state to engage in the bail bond business.

HISTORY Laws 1963, c. 1225, 11; 1971, c. *1231,01*; 1975, c. 619,01; 1987, C. 7285 01; 1989, c. 485,039; 1991, c. 72050 41; 1995 (Reg. Sess., 1996). c. 726, 0 4; 1998-211, 023, eff. 11-1 -98.

58-71-55 Fees for license

A nonrefundable license fee of one hundred dollars (\$100.00) shall be paid to the Commissioner with each application for license as a bail bondsman and a license fee of sixty dollars (\$60.00) shall be paid to the Commissioner with each application for license as a runner.

HISTORY Laws 1963, c. 1225,012; 1975, c. 619, 01; 1983, c. 790, <111; 1991, C. 721,04; 1995 (Reg. Sess., 1996), c. 726, 0 5, eff. 1-1-97.

58-71-60 Repealed

58- 71-65 Runner's license

In addition to the other requirements of this Article, an applicant for a license to be a runner must affirmatively show:

- (1) That the applicant will be employed by only one professional bondsman, who will supervise the work of the applicant and be responsible for the runner's conduct in the bail bond business.
- (2) That the application is endorsed by the appointing professional bondsman, who must agree in the application to supervise the runner's activities.
- (3) Whether or not the applicant has ever been licensed as a bail bondsman or runner. An applicant who has been licensed as a bail bondsman must list all outstanding bail bond obligations. An applicant who has been licensed as a runner must list all prior employment as such, indicating the name of each supervising professional bondsman and the reasons for the termination of the employment.

HISTORY Laws 1963, c. 1225,014; 1975, c. 619,01; 1987, c. 728, 02; 1995 (Reg. Sess., 1996), c. 726, 07, eff. 1-1-97.

58-71-70 Written examination; fees

Each applicant for a license as a professional bondsman, surety bondsman, or runner shall appear in person and take a written examination prepared by the Commissioner testing the applicant's ability and qualifications. Each applicant is eligible for examination 30 days after the date the application is received by the Commissioner. Each examination shall be held at a time and place as designated by the Commissioner. Each applicant shall be given notice of the designated time and place no sooner than 15 days before the examination. The Commissioner may contract with a person to process applications for the examination and administer and grade the examination in the same manner as for agent examinations under Article 33 of this Chapter.

The fee for each examination is twenty-five dollars (\$25.00) plus an amount that offsets the cost of any contract *for* examination services. This examination fee is nonrefundable.

An applicant who fails an examination take a subsequent examination, but at least one year must intervene between examinations.

HISTORY Laws 1963, c. 1225,01.5; 1975, C. 619t 01; 1991, c. 721,05;

1995 (Reg. Sess., 1996), c. 726,08, eff. 1.1~97.

58-71-71 Education requirements for examination

- (a) In order to be eligible to take the examination required to be licensed as a runner or bail bondsman under 0.8.58-71-70. each person shall complete at least 12 hours of education in subjects pertinent to the duties and responsibilities of a runner or bail bondsman, including all laws and regulations related to being a runner or bail bondsman.
- (b) Each year every licensee shall complete at least six hours of continuing education in subjects related to the duties and responsibilities of a runner or bail bondsman before renewal of the license. This continuing education shall not include a written or oral examination. A person who receives his first license on or after January 1 of any year does not have to comply with this subsection until the period between his first and second license renewals.
- (c) Any person licensed as a runner or bail bondsman before January 1~ 1994. is not subject to the preclicensing education requirement of this section, but is subject to the continuing education requirement of this section. A licensed runner or bail bondsman who is 65 years of age or older and who has been licensed as a runner or bail bondsman for 15 years or more is exempt from both the preclicensing education and continuing education requirements of this section.
- (d) Educational courses offered under this section must be approved by the Commissioner before they may be offered. Before approving a course, the Commissioner must be satisfied that it will enhance the professional competence and professional responsibility of bail bondsmen and runners. No person shall offer, sponsor, or conduct any course under this section unless the Commissioner has authorized that person to do so.
- (e) The license of any person who fails to comply with the continuing education requirements under this section shall lapse. The Commissioner may, for good cause shown, grant extensions of time to licensees to comply with these requirements. Any licensee who, after obtaining an extension under this subsection, offers evidence satisfactory to the Commissioner that the licensee has satisfactorily completed the required continuing professional education courses is in compliance with this section.
- (f) The Commissioner may adopt rules for the effective administration of this section.

HISTORY Laws 1993, C. 409, 022; 1993 (Reg. Sess. 1994), c. 678, 0 31; 1995 (Reg. Sess., 1996). c. 726.09; 1998.211, I» 25, 28, err. 11-1-98; 1998-211,026, eff. 1-1-99.

58-71-12 Certificate of authority for education course

(a) A person who provides, presents, or instructs a prelicensing course or continuing education course under G.S. 58-71-71 must have a certificate of authority issued by the Commissioner. The Commissioner may establish requirements for the issuance or renewal of a certificate of authority and grounds for the summary suspension or termination of a certificate of authority .

(b) The Commissioner may summarily suspend or terminate a certificate of authority to provide, present, or instruct a course if the Commissioner finds that the course is inaccurate or it received a poor evaluation from both a Department monitor and a majority of those who attended the course and responded to a Department questionnaire about the course.

HISTORY Laws 1995 (Reg. Sess., 1996), c. 726, 010, eff. 1-1-97.

58-71-75 License renewal

The renewal fee for a runner's license is sixty dollars (\$60.00). The renewal fee for a bail bondsman's license is one hundred dollars (\$100.00). A renewed license continues in effect until suspended or revoked for cause.

HISTORY Laws 1963, c. 1225,016; 1975, c. 619,0 1; 1991, c. 721.06; 1995 (Reg. Sess., 1996), c. 726.011, eff.1-1-97.

58..71-80 Denial, suspension, revocation or refusal to renew license

(a) The Commissioner may deny, suspend, revoke, or refuse to renew any license under this Article for any of the following causes:

(1) For any cause sufficient to deny, suspend, or revoke the license under any other provision of this Article.

(2) A conviction of any misdemeanor committed in the course of dealings under this license issued by the Commissioner.

(3) Material misstatement, misrepresentation or fraud in obtaining the license.

- (4) Misappropriation; conversion or unlawful withholding of moneys belonging to insurers or others and received in the conduct of business under the license.
- (5) Fraudulent or dishonest practices in the conduct of business under the license.
- (6) Conviction of a crime involving moral turpitude.
- (7) Failure to comply with or violation of the provisions of this Article or of any order, rule or regulation of the Commissioner.
- (8) When in the judgment of the Commissioner, the licensee has in the conduct of the licensee's affairs under the license, demonstrated incompetency, financial irresponsibility, or untrustworthiness; or that the licensee is no longer in good faith carrying on the bail bond business; or that the licensee is guilty of rebating, or offering to rebate, or offering to divide the premiums received for the bond.
- (9) For failing to pay any judgment or decree rendered on any forfeited undertaking in any court of competent jurisdiction.
- (10) For charging or receiving as premium or compensation for the making of any deposit or bail bond, any sum in excess of that permitted by this Article.
- (11) For requiring, as a condition of executing a bail bond, that the principal agree to engage the services of a specified attorney.
- (12) For cheating on an examination for a license under this Article.
- (13) For entering into any business association or agreement with any person who is at that time found by the Commissioner to be in violation of any of the bail bond laws of this State, or who has been in any manner disqualified under the bail bond laws of this State or any other state, whereby the person has any direct or indirect financial interest in the bail bond business of the licensee or applicant.
- (14) For knowingly aiding or abetting others to evade or violate the provisions of this Article.
- (15) Any cause for which issuance of the license could have been refused had it then existed and been known to the Commissioner at the time of issuance.

(b) The Commissioner shall deny, revoke, or refuse to renew any license under this Article if the applicant or licensee is or has ever been convicted of a felony.

HISTORY Laws 1963, c. 1225,017; 1975, c. 619,01; 1989, c. 485, 040; 1991, c. 644~ 017; 1993, c. 409, 016; 1998-211,024. eff. 11-1-98; 1998-215, 090, eff. 10.31.98; 1998-217, 060, eff. 10-31-98.

58-71, 81 Notice of bankruptcy filing

Upon the filing for protection under the United States Bankruptcy Code or any state receivership law by any bail bondsman licensed under this Article or by any bail bond business in which the bondsman holds a position of management or ownership~ the bondsman shall notify the Commissioner of the filing for protection within three business days after the filing. Upon the appointment of a receiver by a State or federal court for any professional bondsman licensed under this Article, or *for* any bail bond business in which the bondsman holds a position of management or ownership, the bondsman shall notify the Commissioner of the filing for protection within three business days after the filing. The failure to notify the Commissioner within three business days after the filing for bankruptcy protection shall, after hearing, cause the license of any person failing to make the required notification to be suspended for a period of not less than 60 days nor more than three years, in the discretion of the Commissioner.

HISTORY Laws 1993, c. 409,017; 1995 (Reg. Sess., 1996), c. 726, 012, eff. 1-1-97.

58-71-82 Holding more than one license

If an individual holds a professional bondsman's license or a runner's license and a surety bondsman's license simultaneously, they are considered one license for the purpose of suspension, revocation, or renewal under this Article. Separate renewal fees must be paid for each license, however.

HISTORY Laws 1995 (Reg. Sess., 1996), c. 726, 6013, 15, eff. 1-1-97.

58-71-85 Procedure for license suspension or revocation; review of commissioner's actions

(a) The suspension or revocation of, or refusal to renew, any license under G.B. 58-71-80 shall be in accordance with the provisions of Chapter 150B of the General Statutes.

(b) Whenever the Commissioner denies an initial application for a license or an application for a reissuance of a license, he shall notify the applicant and advise, in writing, the applicant of the reasons for the denial of the license. The application may also be denied for any reason for which a license may be suspended or revoked or not renewed under G.S. 58-71-80(a). Within 30 days after service of the notification, the applicant may make a written demand upon the Commissioner for a review to determine the reasonableness of the Commissioner's action. The review shall be completed without undue delay, and the applicant shall be notified promptly in writing as to the outcome of the review. Within 30 days after service of the notification as to the outcome, the applicant may make a written demand upon the Commissioner for a hearing under Article 3A of Chapter 1508 of the General Statutes if the applicant disagrees with the outcome.

HISTORY Laws 1963, c. 1225,018; 1975, c. 619,01; 1989, c. 485, 033; 1993. c. 504, 0 33; }:
998-211, 0 29, eff. 10-30-98.

58-71-90 Appeals

Any applicant for issuance or renewal of a license as a bail bondsman or runner whose application has been denied or any bail bondsman or runner whose license has been suspended or revoked may appeal the denial, suspension, or revocation pursuant to the provisions of Article 4 of Chapter 1508 of the General Statutes.

HISTORY' .Laws 1963~ c. 1225,019; 1975, c. 619~ 01; 1991, c. 720,03.

58- 71-95 Prohibitions

No bail bondsman or runner shall:

(1) Pay a fee or rebate or give or promise anything of value, directly or indirectly, to a jailer, law-enforcement officer, committing magistrate, or any other person who has power to arrest or hold in custody, or to any public official or public employee in order to secure a settlement, compromise, remission or reduction of the amount of any bail bond or the forfeiture thereof, including the payment to law-enforcement officers, directly or indirectly, for the arrest or apprehension of a principal or principals who have caused or will cause a forfeiture.

- (2) Pay a fee or rebate or give anything of value to an attorney in bail bond matters, except in defense of any action on a bond.
- (3) Pay a fee or rebate or give or promise anything of value to the principal or anyone in his behalf.
- (4) Participate in the capacity of an attorney at a trial or hearing of one on whose bond he is surety, nor suggest or advise the employment of, or name for employment any particular attorney to represent his principal.
- (5) Accept anything of value from a principal or from anyone on behalf of a principal except the premium, which shall not exceed fifteen percent (15%) of the face amount of the bond; provided that the bondsman shall be permitted to accept collateral security or other indemnity from a principal or from anyone on behalf of a principal. Such collateral security or other indemnity required by the bondsman must be reasonable in relation to the amount of the bond and shall be returned within 72 hours after final termination of liability on the bond.
- (6) Solicit business in any of the courts or on the premises of any of the courts of this State, in the office of any magistrate and in or about any place where prisoners are confined. Loitering in or about a magistrate's office or any place where prisoners are confined shall be prima facie evidence of soliciting.
- (7) Advise or assist the principal for the purpose of forfeiting bond.
- (8) Impersonate a law-enforcement officer.
- (9) Falsely represent that the bail bondsman or runner is in any way connected with an agency of the federal government or of a state or local government.

HISTORY Laws 1963, c. 1225,020; 1975, c. 619~ 0 1i 1993, c. 409~ 018; 1995 (Reg. Sess., 1996), c. 726~ 016; 1998-211! Q 31, eff. 11-1-98.

58-71-100 Collateral receipts

When a bail bondsman accepts collateral he shall give a written receipt for same, and this receipt shall give in detail a full description of the collateral received.

HISTORY Laws 1963, c. 1225,021; 1975, c. 619,01.

58- 71-105 Persons prohibited from acting as surety

No sheriff, deputy sheriff, other law-enforcement officer, judicial official, attorney, parole officer, probation officer, jailer; assistant jailer, employee of the General Court of Justice; nor other public employee assigned to duties relating to the administration of criminal justice, nor the spouse of any such person, may in any case become surety on a bail bond for any person. In addition, no person covered by this section may act as an agent for any bonding company or bail bondsman. No such person may have an interest, directly or indirectly, in the financial affairs of any firm or corporation whose principal business is acting as a bail bondsman. However, nothing in this section prohibits any such person from being surety upon the bond of his or her spouse, parent, brother, sister, child, or descendant.

HISTORY Laws 1963, c. 1225,022; 1973, c. 108,039; 1975, c. 619,01; 1991, c. 644; 018; 1995 (Reg'. Sess., 1996), c. 726,017. eff. 1-1-97.

58-71-110 Signing bond in blank

A bail bondsman shall not sign nor countersign in blank bail bonds, nor shall he give a power of attorney to; or otherwise authorize, anyone to countersign his name to bonds unless the person so authorized is a licensed bondsman or runner directly employed by the bondsman giving such power of attorney. Copies of all such powers of attorney and revocations of such powers of attorney must be tiled immediately with the Commissioner and the clerk of superior court of any county in the State where said bondsman giving the power of attorney is currently writing or is obligated on bail bonds.

58-71-115 Annual list of surety bondsmen

Before July 1 of each year, every insurer shall furnish the Commissioner a list of all surety bondsmen appointed by the insurer to write bail bonds on the insurer's behalf. An insurer who appoints a surety bondsman in the State on or after July 1 of each year must notify the Commissioner of the appointment. All appointments are subject to the issuance of the proper license to the appointee under this Article.

An insurer terminating the appointment of a surety bondsman shall file a written notice of the termination with the Commissioner, together with a statement that the insurer has given or mailed notice to the surety bondsman and to the clerk of superior court of any county in the State in which the

insurer has been obligated on bail bonds through the surety bondsman within the past three years. The notice to the Commissioner shall state the reasons, if any, for the termination. Information furnished in the notice to the Commissioner shall be privileged and shall not be used as evidence in or basis for any action against the insurer or any of its representatives.

HISTORY Laws 1963, c. 1225, 024; 1975, c. 619,01; 1995 (Reg. Sess., 1996), c. 726, 018, eff. 1.1.97.

58-71-120 Termination of surety

Any bail bondsman who discontinues writing bail bonds during the period for which he is licensed shall notify the clerks of the superior court with whom he is registered and return his license to the Commissioner for cancellation within 30 days after such discontinuance.

HISTORY Laws 1963,c.1225,o25; 1975,c.619.o 1.

58- 71.125 Annual list of runners

Every person duly licensed as a bail bondsman may appoint as runner any person who has been issued runner's license. Each bail bondsman must, on or before July 1 of each year, furnish to the Commissioner a list of all runners appointed by him. Each such bail bondsman who shall, subsequent to the filing of this list, appoint additional persons as runners shall file written notice with the Commissioner of such appointment.

A bail bondsman terminating the appointment of a runner shall file written notice thereof with the Commissioner, together with a statement that he has given or mailed notice to the runner. Such notice filed with the Commissioner shall state the reasons~ if any; for such termination. Information so furnished the Commissioner shall be privileged and shall not be used as evidence in any action against the bail bondsman.

HISTORY Laws 1963, c. 1225,026; .1975, c. 619, ° 1.

58-71-1301 Substitution of bail by sureties

If money or bonds have been deposited, bail by sureties may be substituted therefor at any time before a breach of the undertaking, and the official taking the new bail shall make an order that the money or bonds be refunded to the person depositing the same and they shall be refunded accordingly, and the original undertakings shall be canceled.

HISTORY Laws 1963, c. 1225,027; 1975, c. 619, () 1.

58-71-135 Posting bail; deposit

When the defendant has been admitted to bail he, or another in his behalf, may deposit with an official authorized to take bail, a sum of money, or nonregistered bonds of the United States, or of the State, or of any county, city or town within the State, equal in market value to the amount of such bail, together with his personal undertaking, and an undertaking of such other person, if the money or bonds are deposited by another. Upon delivery to the official in whose custody the defendant is of a certificate of such deposit, he shall be discharged from custody in the cause.

When bail other than a deposit of money or bonds has been given the defendant or the surety may, at any time before a breach of the undertaking, deposit the sum mentioned in the undertaking, and upon such deposit being made, accompanied by a new undertaking, the original undertaking shall be canceled.

HISTORY Laws 1963, c.1225, 028; 1975, c. 619, 01.

58-71.140 Annual license registration

(a) No professional bail bondsman shall become a surety on an undertaking unless he or she has registered his or her current license in the office of the clerk of superior court in the county in which he or she resides and a certified copy of the same with the clerk of superior court in any other county in which he or she shall write bail bonds.

(b) A surety bondsman shall register his or her current surety bondsman's license and a certified copy of his or her power of appointment with the clerk of superior court in the county in which the surety bondsman resides and with the clerk of superior court in any other county in which the surety bondsman writes bail bonds on behalf of an insurer.

(c) No runner shall become surety on an undertaking on behalf of a professional bondsman unless that runner has registered his or her current license and a certified copy of his or her power of attorney in the office of the clerk of superior court in the county in which the runner resides and with the clerk of superior court in any other county in which the runner writes bail bonds on behalf of the professional bondsman.

HISTORY Laws 1963, c. 1225,031; 1975, c. 619,01; 1995 (Reg. Sess., 1996), c. 726,019, eff. 1-1.97.

58-71-145 Required deposits

Each professional bondsman acting as surety on bail bonds in this State shall maintain a deposit of securities with and satisfactory to the Commissioner of a fair market value of at least one-eighth the amount of all bonds or undertakings written in this State on which he is absolutely or conditionally liable as of the first day of the current month. The amount of this deposit must be reconciled with the bondsman's liabilities as of the first day of the month on or before the fifteenth day of said month and the value of said deposit shall in no event be less than five thousand dollars (\$5,000).

HISTORY Laws 1963, c. 1225,029; 1975, c. 619, 01.

58-71-150 Deposits held in trust

The securities deposited by a professional bondsman with the Commissioner shall be held in trust for the sole protection and benefit of the holder of bail bonds executed by or on behalf of the undersigned bondsman in this State. A pro rata portion of the securities shall be returned to the bondsman when the Commissioner is satisfied that the deposit of securities is in excess of the amount required to be maintained with him by said bondsman and all the securities shall be returned if the Commissioner is satisfied that the bondsman has satisfied, or satisfactory arrangements have been made to satisfy, the obligations of the bondsman on all his bail bonds written in the State.

The Commissioner may sell or transfer any and all of said securities or utilize the proceeds thereof for the purpose of satisfying the liabilities of the professional bondsman on bail bonds given in this State on which he is liable.

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58-71-155 Power of attorney authorizing transfer of securities

With the securities deposited with the Commissioner, the professional bondsman shall at the same time deliver to the Commissioner of Insurance a power of attorney, on a form supplied by the Commissioner; executed and acknowledged by the professional bondsman authorizing the sale or transfer of said securities or any part thereof. The power of attorney shall read as follows:

POWER OF ATTORNEY

AUTHORIZING THE COMMISSIONER OF INSURANCE TO SELL, OR TRANSFER SECURITIES DEPOSITED BY PROFESSIONAL BONDSMEN IN NORTH CAROLINA.

KNOW ALL MEN BY THESE PRESENTS, That, a professional bondsman, located in the County of _____, in the State of _____, has authorized and appointed for himself, his successors, heirs and assigns, the Commissioner of Insurance of the State of North Carolina, in the name and in behalf of said professional bondsman, his true and lawful attorney to sell or transfer any securities deposited or that may be deposited, by said professional bondsman with said Commissioner. under the laws and regulations requiring a deposit of securities to be made by professional bondsmen doing business in the State of North Carolina. insofar as the sale or transfer is deemed necessary by the Commissioner of Insurance to pay any liability arising under a bond which purports to be given by the undersigned bondsman in any county in this State and execution has been issued against said bondsman pursuant to a judgment on the bond and the same has not been satisfied. The securities so deposited are to be held in trust by the Commissioner for the sole protection and benefit of the holder of bail bonds executed by, or on behalf of, the undersigned bondsman. IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal this day _____ day of _____, 19 ____.

Professional Bondsman

Before me, a Notary Public in and for the State _____ personally appeared _____, a professional bondsman who acknowledged that he executed the foregoing power of attorney.

WITNESS my hand and Notarial Seal. this _____ day of _____, 19 ____.

Notary Public

My Commission Expires:

HISTORY Laws 1975, c. 619, 1.

58-71.160 Notice of insufficient deposit

Any professional bondsman, whose security deposits with the Commissioner are, for any reason, reduced in value below the requirements of this Article, shall immediately upon receipt of a notice of deficiency from the Commissioner of Insurance deposit such additional securities as are necessary to comply with the law. No professional bondsman shall sign, endorse, execute or become surety on any additional bail bonds, or pledge or deposit any cash, check, or other security of any nature in lieu of a bail bond in any county in North Carolina until such time as he has made such additional deposit of securities as shall be required by the notice of deficiency.

HISTORY Laws 1975, c. 619, ° 1.

58.71-165 Monthly reports

Each professional bail bondsman and surety bondsman shall file with the Commissioner a written report in form prescribed by the Commissioner regarding all bail bonds on which the bondsman is liable as of the first day of each month showing (i) each individual bonded, (ii) the date the bond was given, (iii) the principal sum of the bond, (iv) the State or local official to whom given, and (v) the fee charged for the bonding service in each instance. The report shall be filed on or before the fifteenth day of each month. Any person who knowingly and willfully falsifies a report required by this section is guilty of a Class I felony.

HISTORY Laws 1975, c. 619, ° 1; 1989, c. 485, 0 43; 1991, c. 644, ° 20; 1993, c. 539,00 1276, 1359; 1994, Ex. Sess., c. 24, ° 14(c); 1998-211,c27,eff.10-30-98.

58-71-167 Writtcn agreements for payment deferment

(a) In any case where the agreement between principal and surety calls for some portion of the bond premium payments to be deferred or paid after the defendant has been released from custody, a written memorandum of agreement between the principal and surety shall be kept on file by the surety with a copy provided to the principal, upon request. The memorandum shall contain the following information:

(I) The amount of the premium payment deferred or not yet paid at the time the defendant is released from jail.

(2) The method and schedule of payment to be made by the defendant to the bondsman, which shall include the dates of payment and amount to be paid on each date.

(3) That the principal is, upon the principal's request, entitled to a copy of the memorandum.

(b) The memorandum must be signed by the defendant and the bondsman, or one of the bondsman's agents, and dated at the time the agreement is made. Any subsequent modifications of the memorandum must be in writing, signed, dated, and kept on file by the surety, with a copy provided to the principal, upon request.

HISTORY Laws 1991, c. 644,022.

58-71-168 Records maintenance

All records related to executing bail bonds, including bail bond registers, monthly reports, receipts, collateral security agreements, and memoranda of agreements, shall be kept separate from records of any other business and must be maintained for not less than three years after the final entry has been made.

HISTORY Laws 1991, c. 644,022.

58.71-170 Examinations

(a) Whenever the Commissioner deems it prudent, the Commissioner shall visit and examine or cause to be visited and examined by a competent person appointed by the Commissioner for that purpose any professional bail bondsman subject to the provisions of this Article.

For this purpose the Commissioner or person making the examination shall have free access to all books and papers of the bondsman that relate to the bondsman's business and to the books and papers kept by any of the bondsman's agents or runners.

(b) The Commissioner may conduct examinations of surety bondsmen under G.S. 58-2-195 as well as under subsection (a) of this section.

HISTORY Laws 1975, c. 619,01; 1991, c. 644,021.

58-71-175 Limitation on bond

No professional bondsman shall become liable on any bond or multiple of bonds for anyone individual that totals more than one fourth of the value of the securities deposited with the Commissioner at that time, until final termination of liability on such bond or multiple of bonds.

HISTORY Laws 1975, c. 619,0 1; 1987~ c. 728,03; 1989, c. 485,042.

58-71.180 Deposit of fees

Fees collected by the Commissioner pursuant to this Article shall be credited to the Department of Insurance Fund created under G.S. 58-6-25.

HISTORY Laws 1963, c. 1225,032; 1975, c. 619,01; 1991. c. 689, 0 294.

58-71-185 Penalties

Any person, firm, association or corporation violating any of the provisions of this Article is guilty of a Class 1 misdemeanor.

HISTORY Laws 1963, c. 1225,033; 1975, c. 619,01; 1991, c. 644, 019; 1993, c. 539, 00 473 1359; 1994, Ex. Sess., c. 24,0 14(c).

58-71-190 Local agency tax or deposit requirements

No county -city or town in this State shall license or levy a license tax on bail bondsmen nor require such bondsmen to deposit collateral security as a condition for continuing to write bail bonds.

HISTORY Laws 1975, c. 619, 01.

58-71-195 Precedence of provisions

Section 41.1 of Chapter 105 of the General Statutes of North Carolina and all laws and clauses of laws in conflict with the provisions of the Chapter are hereby repealed. Provided, however, that in the event of any conflict between the provisions of this Chapter and those of Chapter 15A of the General Statutes of North Carolina, the provisions of Chapter 15A shall control and continue in full force and effect.

HISTORY Laws 1975, c. 619,02.