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SESSION 1995

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SENATE BILL 534
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Short Title: Bail Bondsmen Regulation/AB.

(Public)

Sponsors: Senator Parnell.

Referred to: Finance

March 30, 1995

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE LAW REGULATING SURETY BONDSMEN, BAIL
3 BONDSMEN, AND RUNNERS.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 58-71-1(11) reads as rewritten:

6 "(11) 'Surety bondsman' ~~shall mean~~ means any person who is ~~approved by~~
7 ~~and licensed by the Commissioner as an insurance agent pursuant to the~~
8 ~~provisions of Articles 1 through 64 of this Chapter and a surety~~
9 bondsman under this Article, is appointed by an insurer by power of
10 attorney to execute or countersign bail bonds for the insurer in
11 connection with judicial ~~proceedings~~ proceedings, and receives or is
12 promised ~~money or other things of value therefor.~~ consideration for
13 doing so."

14 Sec. 2. G. S. 58-71-40 reads as rewritten:

15 "**§ 58-71-40. Bail bondsmen and runners to be qualified and licensed; only**
16 **individuals to be licensed; license applications generally.**

17 (a) No person shall act in the capacity of a bail bondsman or runner or perform
18 any of the functions, duties, or powers prescribed for bail bondsmen or runners under the
19 provisions of this Article unless that person shall be qualified and (except as regards an

1 accommodation bondsman) licensed in accordance with the provisions of this Article. No
2 license shall be issued to a professional bondsman or runner except as provided in this
3 Article and none shall be issued except to an individual natural person.

4 (b) The applicant shall apply for a license or renewal thereof on forms prepared and
5 supplied by the Commissioner and the Commissioner may propound any reasonable
6 interrogatories to an applicant for a license under this Article ~~or on any renewal thereof,~~
7 relating to his qualifications, residence, prospective place of business, and any other
8 matters which, in the opinion of the Commissioner, are deemed necessary in order to
9 protect the public and ascertain the qualifications of the applicant. The Commissioner
10 may also conduct any reasonable inquiry or investigation he sees fit, relative to the
11 determination of the applicant's fitness to be licensed or to continue to be licensed.

12 (c) The failure of the applicant to secure approval of the Commissioner shall not
13 preclude ~~him the applicant~~ from applying as many times as ~~he the applicant~~ desires, but
14 no application shall be considered by the Commissioner within one year subsequent to
15 the date upon which the Commissioner denied the last application.

16 (d) Upon the issuance of a license under this section, a picture identification card
17 of design, size, and content approved by the Commissioner shall be issued by the
18 Commissioner to each licensee. Each licensee must have this card in his or her
19 possession at all times when the licensee is working in the scope of the licensee's
20 employment. When the license of a licensee to whom a card has been issued is
21 terminated, the identification card must be surrendered to the Commissioner within 10
22 working days of the termination."

23 Sec. 3. G.S. 58-71-45 reads as rewritten:

24 "**§ 58-71-45. ~~Expiration Terms of licenses.~~**

25 ~~All licenses issued pursuant to the provisions of this Article shall expire annually on~~
26 ~~June 30 unless revoked or suspended prior thereto by the Commissioner, or upon notice~~
27 ~~served upon the Commissioner that the employer of any runner has canceled the~~
28 ~~licensee's authority to act for such employer. A license issued to a bail bondsman and to a~~
29 ~~runner authorizes the licensee to act in that capacity until the license is suspended or~~
30 ~~revoked. Upon the suspension or revocation of a license, the licensee shall return the~~
31 ~~license to the Commissioner. A license of a bail bondsman and a license of a runner shall~~
32 ~~be renewed on July 1 of each year upon payment of the applicable renewal fee under G.S.~~
33 ~~58-71-75. The Commissioner is not required to print renewal licenses. After notifying~~
34 ~~the Commissioner in writing, a bail bondsman who employs a runner may cancel the~~
35 ~~runner's license and the runner's authority to act for the bondsman."~~

36 Sec. 4. G.S. 58-71-50 reads as rewritten:

37 "**§ 58-71-50. ~~Qualification for professional bail bondsmen and runners.~~**

38 (a) Before a license can issue be issued to an applicant permitting ~~him the applicant~~
39 to act as a professional bail bondsman or runner, ~~he the applicant~~ must furnish the
40 Commissioner a complete set of his the applicant's fingerprints and a recent passport size
41 full-face photograph of himself the applicant. The applicant's fingerprints shall be
42 certified by an authorized law-enforcement officer. The fingerprints of every applicant
43 shall be forwarded to the State Bureau of Investigation for a search of the applicant's

1 criminal history record file, if any. If warranted, the State Bureau of Investigation shall
2 forward a set of the fingerprints to the Federal Bureau of Investigation for a national
3 criminal history record check. The Commissioner may adopt rules to establish fees to be
4 paid by applicants to offset the cost incurred by the Commissioner to implement this
5 subsection.

6 (b) Every applicant for a license under this Article as a ~~professional~~-bail bondsman
7 or runner before being issued such license shall satisfy the Commissioner that ~~he~~: he or
8 she:

- 9 (1) Is 18 years of age or over;
- 10 (2) Is a resident of this State;
- 11 (3) Is a person of good moral character and has not been convicted of a
12 felony or any crime involving moral turpitude;
- 13 (4) Has knowledge, training, or experience of sufficient duration and
14 extent to reasonably satisfy the Commissioner that he possesses the
15 competence necessary to fulfill the responsibilities of a licensee;
- 16 (5) Has no outstanding bail bond obligations;
- 17 (6) Is not or has not been in violation of any provision of this Article or
18 of Article 26 of Chapter 15A of the General Statutes or of any
19 similar provision of law of any other state;
- 20 (7) Has not been in any manner disqualified under the laws of this State
21 or any other state to engage in the bail bond business."

22 Sec. 5. G.S. 58-71-55 reads as rewritten:

23 "**§ 58-71-55. License fees.**

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

28 Sec. 6. G.S. 58-71-60 is repealed.

29 Sec. 7. G.S. 58-71-65 reads as rewritten:

30 "**§ 58-71-65. Contents of application for runner's license; endorsement by bail**
31 **professional bondsman.**

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

- 34 (1) That the applicant will be employed by only one ~~bail~~-bondsman
35 professional bondsman, who will supervise the work of the applicant
36 and be responsible for the runner's conduct in the bail bond ~~business;~~
37 ~~and business.~~
- 38 (2) That the application is endorsed by the appointing ~~bail~~-professional
39 bondsman who shall obligate himself ~~therein~~-or herself in the
40 application to supervise the runner's activities.
- 41 (3) That the applicant has disclosed whether he or she has ever been
42 licensed as a ~~professional~~-bail bondsman or runner. If the applicant
43 has ever been licensed as a ~~professional~~-bail bondsman, he or she

1 shall list all outstanding bail bond obligations. If the applicant has
2 ever been licensed as a runner, he or she shall list all prior
3 employment as such, indicating the name of each ~~bail~~ professional
4 bondsman by whom he or she has been employed and the reason or
5 reasons for the termination of the employment."

6 Sec. 8. G.S. 58-71-70 reads as rewritten:

7 **"§ 58-71-70. Examination; fees.**

8 ~~Except as hereinafter provided, an~~ Each applicant for license to be a professional
9 ~~bondsman~~ bondsman, surety bondsman, or runner shall be required to appear in person and
10 take a written examination prepared by the Commissioner testing ~~his~~ the applicant's
11 ability and qualifications. Each applicant ~~shall become~~ is eligible for examination 30 days
12 after the date the application is received by the Commissioner. ~~Examinations~~ Each
13 examination shall be held at such a time and place as designated by the Commissioner, and
14 ~~the Commissioner.~~ Each applicant shall be given notice of ~~such~~ the designated time and
15 place ~~not less no~~ sooner than 15 days ~~prior to taking~~ before the examination. The fee for
16 ~~such each~~ examination shall be is twenty-five dollars (\$25.00) for professional bondsmen and
17 ~~twenty five dollars (\$25.00) for runners. (\$25.00).~~ These ~~This~~ examination fees ~~are~~ fee is
18 nonrefundable. The failure of an applicant to pass an examination shall not preclude him
19 from taking subsequent examinations; provided, however, that at least one year must
20 intervene between examinations."

21 Sec. 9. G.S. 58-71-75 reads as rewritten:

22 **"§ 58-71-75. Renewal of licenses; fees.**

23 A ~~renewal license shall be issued by the Commissioner to a licensee who has~~ desires to
24 continuously ~~maintained~~ maintain his or her license ~~in effect without further examination~~
25 ~~upon the payment of~~ shall pay a renewal fee of sixty dollars (\$60.00) in case of runners and
26 one hundred dollars (\$100.00) in case of professional bondsmen, ~~but such licensees shall in~~
27 ~~all other respects be required to comply with and be subject to the provisions of this Article.~~ bail
28 bondsmen. After the receipt of such licensee's application for renewal, the applicable
29 renewal fee, the current license shall continue in effect until the renewal license is issued or
30 ~~denied~~ suspended or revoked for cause."

31 Sec. 10. G.S. 58-71-81 reads as rewritten:

32 **"§ 58-71-81. Notice of receivership.**

33 Upon the filing for protection under the United States Bankruptcy Code by any
34 ~~professional~~ bail bondsman licensed under this Article or by any bail bond business in
35 which the bondsman holds a position of management or ownership, the bondsman shall
36 notify the Commissioner of the filing for protection within three business days after the
37 filing. Upon the appointment of a receiver by a State or federal court for any professional
38 bondsman licensed under this Article, or for any bail bond business in which the
39 bondsman holds a position of management or ownership, the bondsman shall notify the
40 Commissioner of the filing for protection within three business days after the filing. The
41 failure to notify the Commissioner within three business days after the filing for
42 bankruptcy protection shall, after hearing, cause the license of any person failing to make

1 the required notification to be suspended for a period of not less than 60 days nor more
2 than three years, in the discretion of the Commissioner."

3 Sec. 11. Article 71 of Chapter 58 of the General Statutes is amended by
4 adding a new section to read:

5 **"§ 58-71-82. Other licenses issued by the Commissioner.**

6 If licenses are issued to a bail bondsman under this Article and under Article 33 of
7 this Chapter and the license issued under Article 33 of this Chapter is suspended or
8 revoked for cause or is not renewed, the license issued under this Article is suspended,
9 revoked, or not renewed as of the date the order pursuant to Article 33 of this Chapter is
10 final."

11 Sec. 11.1. G.S. 58-33-25 is amended by adding a new subsection to read:

12 "(e1) If licenses are issued to a bail bondsman under this Article and under Article
13 71 of this Chapter and the license issued under Article 71 of this Chapter is suspended or
14 revoked for cause or is not renewed for failure to pay the renewal fee, the license issued
15 under this Article is suspended, revoked, or not renewed as of the date the order pursuant
16 to Article 71 of this Chapter is final."

17 Sec. 12. G.S. 58-71-82, as enacted by Section 11 of this act, reads as rewritten:

18 **"§ 58-71-82. Other licenses issued by the Commissioner. Dual license holding.**

19 ~~If licenses are issued to a bail bondsman under this Article and under Article 33 of~~
20 ~~this Chapter and the license issued under Article 33 of this Chapter is suspended or~~
21 ~~revoked for cause or is not renewed, the license issued under this Article is suspended,~~
22 ~~revoked, or not renewed as of the date the order pursuant to Article 33 of this Chapter is~~
23 ~~final.~~ If an individual holds a professional bondsman's license and a surety bondsman's
24 license simultaneously, they are considered one license for the purpose of suspension,
25 revocation, or renewal under this Article."

26 Sec. 13. G.S. 58-71-95 reads as rewritten:

27 **"§ 58-71-95. Prohibited practices.**

28 No bail bondsman or runner shall:

- 29 (1) Pay a fee or rebate or give or promise anything of value, directly or
30 indirectly, to a jailer, law-enforcement officer, committing
31 magistrate, or any other person who has power to arrest or hold in
32 custody, or to any public official or public employee in order to
33 secure a settlement, compromise, remission or reduction of the
34 amount of any bail bond or the forfeiture thereof, including the
35 payment to law-enforcement officers, directly or indirectly, for the
36 arrest or apprehension of a principal or principals who have caused
37 or will cause a forfeiture.
- 38 (2) Pay a fee or rebate or give anything of value to an attorney in bail
39 bond matters, except in defense of any action on a bond.
- 40 (3) Pay a fee or rebate or give or promise anything of value to the
41 principal or anyone in his behalf.
- 42 (4) Participate in the capacity of an attorney at a trial or hearing of one
43 on whose bond he is surety, nor suggest or advise the employment

1 of, or name for employment any particular attorney to represent his
2 principal.

3 (5) Accept anything of value from a principal or from anyone on behalf
4 of a principal except the premium, which shall not exceed fifteen
5 percent (15%) of the face amount of the bond; provided that the
6 bondsman shall be permitted to accept collateral security or other
7 indemnity from a principal or from anyone on behalf of a principal.
8 Such collateral security or other indemnity required by the
9 bondsman must be reasonable in relation to the amount of the bond
10 and shall be returned upon final termination of liability on the bond.
11 The failure of the bondsman or runner to return collateral security
12 valued at five hundred dollars (\$500.00) or more upon or within 30
13 days after final termination of liability on the bond is punishable as a
14 Class I felony.

15 (6) Solicit business in any of the courts or on the premises of any of the
16 courts of this State, in the office of any magistrate and in or about
17 any place where prisoners are confined. Loitering in or about a
18 magistrate's office or any place where prisoners are confined shall be
19 prima facie evidence of soliciting.

20 (7) Advise or assist the principal for the purpose of forfeiting bond."

21 Sec. 14. G.S. 58-71-105 reads as rewritten:

22 **"§ 58-71-105. Persons prohibited from becoming surety or runners.**

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

33 Sec. 15. G.S. 58-71-115 reads as rewritten:

34 **"§ 58-71-115. Insurers to annually report surety bondsmen; notices of appointments
35 and terminations; information confidential.**

36 ~~Every~~ Before July 1 of each year, every insurer shall ~~annually prior to July 1,~~ furnish the
37 Commissioner a list of all surety bondsmen appointed by it to write bail bonds on its
38 behalf. Every such insurer who subsequently appoints a surety bondsman in the State
39 shall give notice ~~thereof~~ of the appointment to the Commissioner. All such appointments
40 shall be subject to the issuance of the proper ~~insurance agent's~~ license to the ~~appointee.~~
41 appointee under this Article.

42 An insurer terminating the appointment of a surety bondsman shall file written notice
43 ~~thereof~~ of the termination with the Commissioner, together with a statement that it has

1 given or mailed notice to the surety bondsman and to the clerk of superior court of any
2 county in the State ~~wherein such~~ in which the insurer has been obligated on bail bonds
3 through ~~said agent~~ the surety bondsman within the past three years. ~~Such notice filed with~~
4 ~~the Commissioner~~ The notice shall state the reasons, if any, for such ~~the~~ termination.
5 Information ~~so~~ furnished in the notice to the Commissioner shall be privileged and shall
6 not be used as evidence in or basis for any action against the insurer or any of its
7 representatives."

8 Sec. 16. G.S. 58-71-140 reads as rewritten:

9 "**§ 58-71-140. Registration of licenses and power of appointments by insurers.**

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

14 (b) A surety bondsman shall ~~also annually register a certified copy of his or her~~
15 current surety bondsman's license and a certified copy of his or her power of appointment
16 with the clerk of superior court ~~wherein in the county in which he~~ the surety bondsman
17 resides and with the clerk of superior court in any other county ~~wherein he shall write in~~
18 which the surety bondsman writes bail bonds on behalf of an insurer.

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

24 Sec. 17. G.S. 58-33-25(e)(9) is repealed.

25 Sec. 18. All surety bondsmen holding licenses issued under G.S. 58-33-
26 25(e)(9) shall be issued surety bondsmen licenses under Article 71 of Chapter 58 of the
27 General Statutes.

28 Sec. 19. If any section or provision of this act is declared unconstitutional or
29 invalid by the courts, it does not affect the validity of the act as a whole or any part other
30 than the part so declared to be unconstitutional or invalid.

31 Sec. 20. Sections 6 and 13 of this act become effective October 1, 1995.
32 Sections 1 through 5, 7 through 10, 12, and 16 through 18 of this act become effective
33 January 1, 1996. The remaining sections of this act are effective upon ratification.
34 Section 11.1 of this act expires January 1, 1996.