

GENERAL ASSEMBLY OF NORTH CAROLINA
1995 SESSION

CHAPTER 726
SENATE BILL 534

AN ACT TO AMEND THE LAW REGULATING SURETY BONDSMEN, BAIL
BONDSMEN, AND RUNNERS.

The General Assembly of North Carolina enacts:

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

"(11) 'Surety bondsman' ~~shall mean~~ means any person who is ~~approved by~~ and licensed by the Commissioner as ~~an insurance agent pursuant to the provisions of Articles 1 through 64 of this Chapter and 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~~ proceedings, and receives or is promised ~~money or other things of value therefor.~~ consideration for doing so."

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

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

(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 as ~~provided in this Article and none shall be issued except~~ to an individual natural person.

(b) The applicant shall apply for a license ~~or renewal thereof~~ 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 thereof,~~ relating to ~~his~~ 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 ~~he sees fit,~~ relative to the determination of the applicant's fitness to be licensed or to continue to be licensed.

(c) ~~The failure of the applicant to secure approval of the Commissioner shall not preclude him from applying as many times as he desires, but no application shall be considered by~~ A person whose application is denied may reapply, but the Commissioner within one year subsequent to the date upon which the Commissioner denied the last

application. 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."

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

"§ 58-71-45. Expiration Terms of licenses.

All licenses issued pursuant to the provisions of this Article shall expire annually on June 30 unless revoked or suspended prior thereto by the Commissioner, or upon notice served upon the Commissioner that the employer of any runner has canceled the licensee's authority to act for such employer. 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 G.S. 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."

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

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

(a) Before license can issue to an An applicant permitting him to act as a professional for a license as a bail bondsman or runner, he must furnish the Commissioner a complete set of his the applicant's fingerprints and a recent passport size full-face photograph of himself 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 professional bail bondsman or runner before being issued such license shall satisfy the Commissioner that he must meet all of the following qualifications:

- (1) Is-Be 18 years of age or over; over.
- (2) Is-Be a resident of this State; State.
- (3) Is-Be a person of good moral character and has not-not have been convicted of a felony or any crime involving moral turpitude; turpitude.
- (4) Has-Have knowledge, training, or experience of sufficient duration and extent to reasonably satisfy the Commissioner that he possesses

provide the competence necessary to fulfill the responsibilities of a licensee; licensee.

- (5) ~~Has~~ Have no outstanding bail bond ~~obligations; obligations.~~
- (6) ~~Is not or has not been in violation~~ Have no current or prior violations of any provision of this Article or of Article 26 of Chapter 15A of the General Statutes or of any similar provision of law of any other ~~state; state.~~
- (7) ~~Has not~~ Not have been in any manner disqualified under the laws of this State or any other state to engage in the bail bond business."

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

"§ 58-71-55. License fees.

A nonrefundable license fee of one hundred dollars (\$100.00) shall be paid to the Commissioner with each application for license as a ~~professional 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."

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

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

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

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 ~~bail bondsman~~ professional bondsman, who will supervise the work of the applicant and be responsible for the runner's conduct in the bail bond ~~business; and business.~~
- (2) That the application is endorsed by the appointing ~~bail bondsman~~ professional bondsman, who ~~shall obligate himself therein~~ must agree in the application to supervise the runner's activities.
- (3) ~~That Whether or not the applicant has disclosed whether he has ever been licensed as a professional bail bondsman or runner. If the An applicant who has ever been licensed as a professional bondsman, he shall bail bondsman must list all outstanding bail bond obligations. If the An applicant who has ever been licensed as a runner, he shall runner must list all prior employment as such, indicating the name of each bail supervising professional bondsman by whom he has been employed and the reason or reasons for the termination of the employment."~~

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

"§ 58-71-70. Examination; fees.

~~Except as hereinafter provided, an~~ Each applicant for a license to be as a professional bondsman ~~bondsman, surety bondsman,~~ or runner shall ~~be required to~~ appear in person and take a written examination prepared by the Commissioner testing ~~his the applicant's~~ the applicant's ability and qualifications. Each applicant ~~shall become~~ is eligible for examination 30 days after the date the application is received by the Commissioner.

~~Examinations~~ Each examination shall be held at ~~such~~ a time and place as designated by the ~~Commissioner, and the~~ Commissioner. Each applicant shall be given notice of ~~such~~ the designated time and place ~~not less no sooner than 15 days prior to taking~~ 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 ~~such~~ each examination shall ~~be~~ is twenty-five dollars (\$25.00) for professional bondsmen and twenty five dollars (\$25.00) for runners. ~~(\$25.00) plus an amount that offsets the cost of any contract for examination services. These~~ This examination fees are ~~fee is nonrefundable. The failure of an applicant to pass an examination shall not preclude him from taking subsequent examinations; provided, however, that~~

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

Sec. 9. G.S. 58-71-71(d) reads as rewritten:

"(d) ~~The Commissioner shall approve the educational~~ Educational courses offered under this section ~~and ensure that they 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 the auspices of this section unless the Commissioner has authorized that person to do so."~~

Sec. 10. Article 71 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-71-72. Qualifications of instructors.

(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."

Sec. 11. G.S. 58-71-75 reads as rewritten:

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

~~A renewal license shall be issued by the Commissioner to a licensee who has continuously maintained his license in effect without further examination upon the payment of a renewal fee of sixty dollars (\$60.00) in case of runners and one hundred dollars (\$100.00) in case of professional bondsmen, but such licensees shall in all other respects be required to comply with and be subject to the provisions of this Article. 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). After the receipt of such licensee's~~

~~application for renewal, the current license shall continue. A renewed license continues in effect until the renewal license is issued or denied, suspended or revoked for cause."~~

Sec. 12. G.S. 58-71-81 reads as rewritten:

"§ 58-71-81. Notice of receivership.

Upon the filing for protection under the United States Bankruptcy Code or any state receivership law by any ~~professional~~ 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."

Sec. 13. Article 71 of Chapter 58 of the General Statutes is amended by adding a new section to read:

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

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

Sec. 14. G.S. 58-33-25 is amended by adding a new subsection to read:

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

Sec. 15. G.S. 58-71-82, as enacted by Section 11 of this act, reads as rewritten:

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

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

Sec. 16. G.S. 58-71-95 reads as rewritten:

"§ 58-71-95. Prohibited practices.

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 upon 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."

Sec. 17. G.S. 58-71-105 reads as rewritten:

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

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 ~~professional~~ 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."

Sec. 18. G.S. 58-71-115 reads as rewritten:

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

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

An insurer terminating the appointment of a surety bondsman shall file a written notice ~~thereof of the termination~~ with the Commissioner, together with a statement that ~~it~~ the insurer has given or mailed notice to the surety bondsman and to the clerk of superior court of any county in the State ~~wherein such~~ in which the insurer has been obligated on bail bonds through ~~said agent~~ the surety bondsman within the past three years. ~~Such notice filed with the Commissioner~~ The notice to the Commissioner shall state the reasons, if any, for ~~such~~ the termination. Information ~~so~~ 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."

Sec. 19. G.S. 58-71-140 reads as rewritten:

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

(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 ~~also annually register a certified copy of 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 ~~wherein~~ in the county in which he ~~the~~ surety bondsman resides and with the clerk of superior court in any other county ~~wherein he shall write~~ 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."

Sec. 20. G.S. 58-33-25(e)(9) is repealed.

Sec. 21. All surety bondsmen holding licenses issued under G.S. 58-33-25(e)(9) shall be issued surety bondsmen licenses under Article 71 of Chapter 58 of the General Statutes.

Sec. 22. If any section or provision of this act is declared unconstitutional or invalid by the courts, it does not affect the validity of the act as a whole or any part other than the part so declared to be unconstitutional or invalid.

Sec. 23. Sections 6 and 16 of this act become effective October 1, 1996. Sections 1 through 5, 7 through 12, 15, and 17 through 21 of this act become effective January 1, 1997. The remaining sections of this act are effective upon ratification. Section 14 of this act expires January 1, 1997.

In the General Assembly read three times and ratified this the 21st day of June, 1996.

Dennis A. Wicker
President of the Senate

Harold J. Brubaker
Speaker of the House of Representatives