

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 1608*
Committee Substitute Favorable 6/27/00
Senate Judiciary II Committee Substitute Adopted 7/12/00

Short Title: Amend Bail Bondsmen and Runners Law.

(Public)

Sponsors:

Referred to:

May 18, 2000

1 A BILL TO BE ENTITLED
2 AN ACT TO REQUIRE SUPERVISION OF FIRST-YEAR BAIL BONDSMEN AND
3 RUNNERS; TO MAKE IT A CLASS I FELONY FOR A BONDSMAN TO
4 KNOWINGLY AND WILLFULLY FAIL TO RETURN ANY COLLATERAL
5 SECURITY VALUED AT MORE THAN ONE THOUSAND FIVE HUNDRED
6 DOLLARS; TO REQUIRE THAT COLLATERAL SECURITY IN THE FORM OF
7 CASH OR NEGOTIABLE INSTRUMENTS BE HELD IN TRUST ACCOUNTS;
8 TO PROVIDE FOR THE DISPOSITION OF OUTSTANDING BAIL BOND
9 OBLIGATIONS UPON THE DEATH, INCAPACITATION, OR INCOMPETENCE
10 OF A BAIL BONDSMAN; AND TO INCREASE THE MINIMUM SECURITIES
11 DEPOSIT REQUIRED OF PROFESSIONAL BONDSMEN.

12 The General Assembly of North Carolina enacts:

13 Section 1. G. S. 58-71-1 is amended by adding a new subdivision to read:

14 "(4a) 'First-year licensee' means any person who has been licensed as a bail
15 bondsman or runner under this Article and who has held the license for
16 a period of less than 12 months."

17 Section 2. G. S. 58-71-1 is amended by adding a new subdivision to read:

1 "(9a) 'Supervising bail bondsman' means any person licensed by the
2 Commissioner as a professional bondsman or surety bondsman who
3 employs or contracts with any new licensee under this Article."

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

6 **"§ 58-71-41. First-year licensees; limitations.**

7 (a) Except as provided in this section, a first-year licensee shall have the same
8 authority as other persons licensed as bail bondsmen or runners under this Article.
9 Except as provided in subsection (d) of this section, a first-year licensee shall operate
10 only under the supervision of and from the official business address of a licensed
11 supervising bail bondsman for the first 12 months of licensure. A first-year licensee may
12 only be employed by or contract with one supervising bail bondsman.

13 (b) When a first-year licensee has completed 12 months of supervision, six of
14 which shall be uninterrupted, the supervising bail bondsman shall give notice of that fact
15 to the Commissioner in writing. If the licensee will continue to be employed by or
16 contract with the supervising bail bondsman beyond the initial 12-month period, the
17 supervising bail bondsman shall continue to supervise and be responsible for the
18 licensee's acts.

19 (c) If the employment of or contract with a first-year licensee is terminated, the
20 supervising bail bondsman shall notify the Commissioner in writing and shall specify the
21 reason for the termination.

22 (d) If, after exercising due diligence, a first-year licensed bail bondsman is unable
23 to become employed by or to contract with a supervising bail bondsman, the first-year
24 licensed bail bondsman must submit to the Department a sworn affidavit stating the
25 relevant facts and circumstances regarding the first-year licensed bail bondman's inability
26 to become employed by or contract with a supervising bail bondsman. The Department
27 shall review the affidavit and determine whether the first-year licensed bail bondsman
28 will be allowed to operate as an unsupervised bail bondsman. A first-year licensed bail
29 bondsman is prohibited from becoming a supervising bail bondsman during the first two
30 years of licensure.

31 (e) Provided all other licensing requirements are met, an applicant for a bail
32 bondsman or runner's license who has previously been licensed with the Commissioner
33 for a period of at least 18 consecutive months and who has been inactive or unlicensed
34 for a period of not more than three consecutive years shall not be deemed a new licensee
35 for purposes of this section."

36 Section 4. G.S. 58-71-80 is amended by adding a new subsection to read:

37 "(c) In the case of a first-year licensee whose employment or contract is terminated
38 prior to the end of the 12-month supervisory period, the Commissioner may consider all
39 information provided in writing by the supervising bail bondsman in determining whether
40 sufficient cause exists to suspend, revoke, or refuse to renew the license or to warrant
41 criminal prosecution of the first-year licensee. If the Commissioner determines there is
42 not sufficient cause for adverse administrative action or criminal prosecution, the
43 termination shall not be deemed an interruption and the period of time the licensee was

1 employed by or contracted with the terminating supervising bail bondsman will be
2 credited toward the licensee's completion of the required 12 months of supervision with a
3 subsequent supervising bail bondsman."

4 Section 5. G.S. 58-71-95(5) reads as rewritten:

5 "(5) Accept anything of value from a principal or from anyone on behalf of a
6 principal except the premium, which shall not exceed fifteen percent
7 (15%) of the face amount of the bond; provided that the bondsman shall
8 be permitted to accept collateral security or other indemnity from a
9 principal or from anyone on behalf of a principal. Such collateral
10 security or other indemnity required by the bondsman must be
11 reasonable in relation to the amount of the bond and shall be returned
12 within 72 hours after final termination of liability on the bond. Any bail
13 bondsman who knowingly and willfully fails to return any collateral
14 security, the value of which exceeds one thousand five hundred dollars
15 (\$1,500), is guilty of a Class I felony. All collateral security, such as
16 personal and real property, subject to be returned must be done so under
17 the same conditions as requested and received by the bail bondsman."

18 Section 6. G.S. 58-71-100 reads as rewritten:

19 "**§ 58-71-100. Receipts for collateral; trust accounts.**

20 When a bail bondsman accepts collateral he shall give a written receipt for ~~same, the~~
21 ~~collateral.~~ and this-The receipt shall give in detail a full description of the collateral
22 received. Collateral security shall be held and maintained in trust. When collateral
23 security is received in the form of cash or check or other negotiable instrument, the
24 licensee shall deposit the cash or instrument within two banking days after receipt, in an
25 established, separate noninterest-bearing trust account in any bank located in North
26 Carolina. The trust account funds shall not be commingled with other operating funds."

27 Section 7. Article 71 of Chapter 58 of the General Statutes is amended by
28 adding a new section to read:

29 "**§ 58-71-121. Death, incapacitation, or incompetence of a bail bondsman.**

30 In the case of death, incapacitation, or incompetence of a licensed bail bondsman, the
31 spouse or surviving spouse, next of kin, person or persons holding a power of attorney,
32 guardian, executor, or administrator of the licensed bail bondsman may contract with
33 another licensed bail bondsman to perform those duties to have the licensee's outstanding
34 bail bond obligations resolved to the satisfaction of the courts. The contract must be filed
35 with the Commissioner and every clerk of superior court where it can be determined the
36 licensee has pending outstanding bail bond obligations. The licensed bail bondsman who
37 has agreed to perform these duties shall not, at the time of the execution of the contract,
38 have any administrative or criminal actions pending against him or her."

39 Section 8. G.S. 58-71-145 reads as rewritten:

40 "**§ 58-71-145. Financial responsibility of professional bondsmen.**

41 Each professional bondsman acting as surety on bail bonds in this State shall maintain
42 a deposit of securities with and satisfactory to the Commissioner of a fair market value of
43 at least one-eighth the amount of all bonds or undertakings written in this State on which

1 he is absolutely or conditionally liable as of the first day of the current month. The
2 amount of this deposit must be reconciled with the bondsman's liabilities as of the first
3 day of the month on or before the fifteenth day of said month and the value of said
4 deposit shall in no event be less than ~~five thousand dollars (\$5,000)~~ fifteen thousand dollars
5 (\$15,000)."

6 Section 9. G.S. 58-71-185 reads as rewritten:

7 "**§ 58-71-185. Penalties for violations.**

8 ~~Any person, firm, association or corporation violating~~ Except as otherwise provided in
9 this Article, any person who violates any of the provisions of this Article is guilty of a
10 Class 1 misdemeanor."

11 Section 10. This act becomes effective October 1, 2000.