

Committee Substitute for Senate Bill No. 1916

An act relating to bail bond agencies and agents; creating s. 648.24, F.S.; declaring public policy; amending s. 648.25, F.S.; defining terms; amending s. 648.27, F.S.; prescribing licensure requirements for managing general agents; creating s. 648.285, F.S.; providing for temporary permits; amending s. 648.29, F.S.; prescribing requirements for build-up accounts; amending ss. 648.30, 648.31, F.S.; eliminating references to runners; amending s. 648.34, F.S.; revising qualifications for bail bond agents; amending s. 648.355, F.S.; revising qualifications for temporary licenses; amending s. 648.36, F.S.; requiring licensees to maintain certain records; amending s. 648.381, F.S.; prescribing additional education requirements for certain persons seeking reexamination; amending ss. 648.382, 648.383, F.S.; eliminating references to runners; requiring an affidavit regarding premiums owed; amending s. 648.384, F.S.; eliminating references to runners; amending s. 648.385, F.S.; removing obsolete provisions; amending s. 648.386, F.S.; increasing certain education requirements; creating s. 648.387, F.S.; providing for the designation of primary bail bond agents; amending s. 648.388, F.S.; prescribing requirements for managing general agents; amending ss. 648.39, 648.41, F.S.; eliminating references to runners; amending s. 648.44, F.S.; prohibiting certain forms of solicitation and advertising; eliminating references to runners; amending s. 648.441, F.S.; eliminating references to runners and establishing a fine for certain violations; amending s. 648.442, F.S.; prescribing requirements relating to collateral security; prescribing requirements for the appointment of certain bail bond appointees who were previously appointed; amending s. 648.4425, F.S.; requiring agents to provide a statement of surrender; amending s. 648.45, F.S.; prohibiting the filing of false reports and other actions relating to reports; amending s. 648.52, F.S.; increasing an administrative penalty; creating s. 648.525, F.S.; providing for civil administrative proceedings against licensees; amending s. 648.571, F.S.; providing procedures for the return of collateral; authorizing certain fees; providing a penalty; amending ss. 624.501, 624.523, F.S.; eliminating references to runners; repealing s. 648.37, F.S., relating to qualifications of runners; providing severability; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 648.24, Florida Statutes, is created to read:

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 chapter 648 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.

Section 2. Section 648.25, Florida Statutes, is amended to read:

648.25 Definitions.—~~As The following words when used in this chapter, the term have the meanings respectively ascribed to them in this section:~~

(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)~~(1) “Bail bond agent” means a limited surety agent or a professional bail bond agent as hereafter defined.

~~(3)~~(2) “Department” means the Department of Insurance.

~~(4)~~(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.

~~(5)~~(4) “Insurer” means any domestic, foreign, or alien surety company which has been authorized to transact surety business in this state.

~~(5) “Agency” means any business location at which a licensed and appointed bail bond agent engages in any activity or employs individuals to engage in any activity which by law may be performed only by a licensed and appointed bail bond agent.~~

(6) “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.

(7) “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.

~~(8)~~(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) “Runner” means a person employed by a bail bond agent, insurer, or managing general agent for the purpose of assisting the bail bond agent in~~

~~presenting the defendant in court when required or employed by the bail bond agent to assist in the apprehension and surrender of the defendant to the court or keeping the defendant under necessary surveillance. This does not affect the right of a bail bond agent or insurer to hire counsel or to obtain the assistance of law enforcement officers.~~

(9) “Temporary bail bond agent” means a person employed by a bail bond agent or agency, insurer, or managing general agent, and such licensee has shall have the same authority as ~~conferred and authorized by law upon a licensed bail bond agent, including which shall include~~ 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 shall not have the authority to 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 counsel or to obtain the assistance of law enforcement officers.

Section 3. Subsection (8) of section 648.27, Florida Statutes, is amended to read:

648.27 Licenses and appointments; general.—

(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.

Section 4. Section 648.285, Florida Statutes, is created to read:

648.285 Bond agency; ownership requirements.—

(1) A person may not own, control, or otherwise have a pecuniary interest in a bailbond 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.

Section 5. Section 648.29, Florida Statutes, is amended to read:

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 or managing general agent, either with the insurer or managing general agent representing such insurer, must be held maintained in an individual build-up trust account for the bail bond agent or agency by the insurer or the managing general agent in a FDIC-approved or FSLIC-approved bank or savings and loan association in this state, jointly in the name of the bail bond agent or agency and the insurer surety or managing general agent or in trust for the bail bond agent or agency by the insurer. Such account must remain surety or managing general agent and is 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.

Section 6. Section 648.30, Florida Statutes, is amended to read:

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 runner~~ or perform any of the functions, duties, or powers prescribed for bail bond agents or temporary bail bond agents runners under this chapter unless that person is qualified, licensed, and appointed as provided in this chapter.

(2) ~~A~~ No person may not shall represent himself or herself to be a bail enforcement agent, bounty hunter, or other similar title in this state.

(3) ~~A~~ No person, other than a certified law enforcement officer, may not shall be authorized to 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 ~~any provision of~~ this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 7. Section 648.31, Florida Statutes, is amended to read:

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, ~~or runner~~, as provided in s. 624.501.

Section 8. Paragraphs (a) and (b) of subsection (2) of section 648.34, Florida Statutes, are amended to read:

648.34 Bail bond agents; qualifications.—

(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 and a bona fide resident of this state. An individual who is a ~~bona fide~~ 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.

Section 9. Subsections (1), (3), (6), and (8) of section 648.355, Florida Statutes, are amended to read:

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 and a bona fide resident of this state. An individual who is a ~~bona fide~~ 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~~ 80 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 at the time of licensure application, and at all times throughout the existence of the temporary license, by only one licensed and appointed supervising bail bond agent, ~~managing general agent, or authorized insurer,~~ 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.

(f) The application must be accompanied by an affidavit verifying proposed ~~a certificate of 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 ~~shall~~ file with the department statements by a 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.

(3) The temporary license shall be effective for 18 months ~~a period of 1 year~~, subject to earlier termination at the request of the employer or if suspended or revoked by the department.

(6) After licensure as a temporary licensee for at least 12 ~~6~~ 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.

(8)(a) ~~A Under the temporary license, the licensee has shall have the same authority as conferred and authorized by the laws of this state upon a licensed bail bond agent, including which shall include 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. however,~~

(b) A temporary licensee ~~may shall~~ not have the authority to execute or sign bonds, handle collateral receipts, or deliver bonds to appropriate authorities, ~~or. 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.

Section 10. Section 648.36, Florida Statutes, is amended to read:

648.36 Bail bond agent's records.—~~Each licensee Every bail bond agent~~ must maintain in his or her office such records of bail bonds executed or countersigned by him or her to enable the department ~~public~~ 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.

Section 11. Section 648.381, Florida Statutes, is amended to read:

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.

Section 12. Section 648.382, Florida Statutes, is amended to read:

648.382 Appointment of bail bond agents and, temporary bail bond agents, ~~and runners~~; 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 ~~or runner~~ 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, ~~or runner'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 ~~or runner~~, 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, fitness, and reputation of the proposed appointee; ~~and~~

(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) Prior to any appointment of a bail bond agent, the appointing insurer must certify 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 ~~or runner~~, 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 ~~or runner'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.

Section 13. Section 648.383, Florida Statutes, is amended to read:

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

(1) The appointment of a bail bond agent ~~or runner~~ 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 along with payment of the renewal appointment fee and taxes as prescribed in s. 624.501.

(2) Each appointing person must file with the department the lists, statement, and information as to each bail bond agent ~~or runner~~ whose appointment is being renewed, accompanied by payment of the applicable renewal fees and taxes as prescribed in s. 624.501, by a date established by the department following the month during which the appointment will expire.

(3) An appointment may be renewed by the department without penalty if the information required under subsection (2) is received by the department on or prior to the date established by the department for renewal, and such appointment is effective on the day the appointment was scheduled to expire.

(4) If the information required under subsection (2) is received by the department after the date established by the department for renewal, the appointment may be renewed by the department if an additional appointment, continuation, and reinstatement fee accompanies the application as required under s. 624.501.

Section 14. Section 648.384, Florida Statutes, is amended to read:

648.384 Effect of expiration of appointment; bail bond agents ~~and runners~~.—

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

Section 15. Paragraph (a) of subsection (2) of section 648.385, Florida Statutes, is amended to read:

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

(2)(a) ~~For compliance dates beginning in January 1997 and thereafter,~~ 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.

Section 16. Paragraph (a) of subsection (1) and paragraph (b) of subsection (4) of section 648.386, Florida Statutes, are amended to read:

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 ~~80-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.

(4) INSTRUCTOR'S DUTIES AND QUALIFICATIONS.—

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

1. During the past 15 ~~10~~ years, the person must have had at least 10 ~~5~~ 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 15 ~~10~~ years, the person must have had at least 10 ~~5~~ 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.

Section 17. Section 648.387, Florida Statutes, is created to read:

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.

Section 18. Section 648.388, Florida Statutes, is amended to read:

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.

Section 19. Section 648.39, Florida Statutes, is amended to read:

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

(1) An insurer who terminates the appointment of a managing general agent, bail bond agent, or temporary bail bond agent, ~~or runner~~ 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 managing general agent, bail bond agent, temporary bail bond agent, or runner. 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, ~~or runner~~, 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, ~~or runner~~ 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.

Section 20. Section 648.41, Florida Statutes, is amended to read:

648.41 Termination of appointment of temporary bail bond agents ~~or runners~~.—A bail bond agent, insurer, or managing general agent terminating the appointment of a temporary bail bond agent ~~or runner~~ 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 ~~or runner~~. 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).

Section 21. Section 648.44, Florida Statutes, is amended to read:

648.44 Prohibitions; penalty.—

(1) A bail bond agent or, temporary bail bond agent, ~~or runner~~ 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) and (4), 501.613, and 501.616(6).

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

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

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

(j)(i) Accept anything of value from a principal for providing a bail bond except the premium and transfer fee authorized by the department, 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. 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)(j) 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)(k) Execute a bond in this state on his or her own behalf.

(m)(l) 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)(m)~~ 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, runners, 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 IX 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 appears 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, ~~or runner~~ 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, ~~or runner~~, 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)(d), paragraph (1)(e), paragraph (1)(f), paragraph (1)(g), paragraph (1)(j) (1)(i), or paragraph (1)(n) (1)(m),~~ 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) (1)(g), paragraph (1)(k) (1)(j), or paragraph (1)(m) (1)(l), paragraph (1)(o), 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.

Section 22. Section 648.441, Florida Statutes, is amended to read:

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, ~~or runner~~ 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.

Section 23. Section 648.442, Florida Statutes, is amended to read:

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 quit-claim 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) ~~Such~~ 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 ~~or managing general agent~~. 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~~ 10 percent of the face value of the bond. However, upon motion and proof that the actual, reasonable expenses exceed ~~20~~ 10 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)~~(8) 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)~~(9) 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 Insurance."

~~(11)~~(10) 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.

Section 24. Section 648.4425, Florida Statutes, is amended to read:

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 principal 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 recommits 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)~~(2) The department shall prescribe forms to administer this section.

Section 25. Subsection (2) of section 648.45, Florida Statutes, is amended to read:

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

(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 bail or any violation of the insurance code or if the person ~~for any of the following causes:~~

(a) Lacks ~~Laek~~ of 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 ~~Failure~~ to pass any examination required under this chapter.

(d) Has willfully used ~~Willful use~~, 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 ~~Willful failure~~ to comply with or willfully violated ~~willful violation of~~ any proper order or rule of the department or willfully violated ~~willful violation of~~ any provision of this chapter or the insurance code.

(k) Has ~~Having~~ been found guilty of, or has ~~having~~ 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 ~~Failure~~ 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 ~~Failure~~ 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 indicates that the licensee is incompetent, negligent, or dishonest or that property or rights of clients cannot safely be entrusted to him or her.

Section 26. Subsection (1) of section 648.52, Florida Statutes, is amended to read:

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~~ ~~\$500~~ or, if the department has found willful misconduct or willful violation on the part of the licensee, ~~\$20,000~~ ~~\$2,500~~. 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.

Section 27. Section 648.525, Florida Statutes, is created to read:

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.

Section 28. Section 648.571, Florida Statutes, is amended to read:

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 of the surety. 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 of the surety pursuant to chapter 903, the collateral shall be returned to the indemnitor within 21 days after the of said discharge is being provided.

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

(3)(a) Fees or other charges of any nature other than those provided as outlined in this chapter or by rule of the department 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. However,

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

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

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

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

4. If In the event 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.

Section 29. Subsection (21) of section 624.501, Florida Statutes, is amended to read:

624.501 Filing, license, appointment, and miscellaneous fees.—The department shall collect in advance, and persons so served shall pay to it in advance, fees, licenses, and miscellaneous charges as follows:

(21) Limited surety agent ~~or~~, professional bail bond agent, ~~or runner~~ as defined in s. 648.25, each agent and each insurer represented. Original appointment and biennial renewal or continuation thereof, each agent or insurer, whichever is applicable:

Appointment fee	\$44.00
State tax	24.00
County tax	12.00
Total	\$80.00

Section 30. Paragraph (1) of subsection (1) of section 624.523, Florida Statutes, is amended to read:

624.523 Insurance Commissioner’s Regulatory Trust Fund.—

(1) There is created in the State Treasury a trust fund designated "Insurance Commissioner's Regulatory Trust Fund" to which shall be credited all payments received on account of the following items:

(1) All sums received under ~~s. 648.27~~ ~~s. 648.27(6)~~ (bail bond agent, limited surety agent ~~or runner~~, continuation fee), the "appointment fee" portion of any license or permit provided for under s. 648.31, and the application fees provided for under ss. 648.34(3) and 648.37(3).

Section 31. Section 648.37, Florida Statutes, is repealed.

Section 32. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 33. This act shall take effect July 1, 2002.

Approved by the Governor May 15, 2002.

Filed in Office Secretary of State May 15, 2002.