

ENROLLED SENATE
BILL NO. 936

By: Haney and Hobson of the
Senate

and

Hamilton and Settle of the
House

An Act relating to the insurance department; amending 59 O.S. 1991, Section 1308.1, as amended by Section 2, Chapter 331, O.S.L. 1994 (59 O.S. Supp. 1997, Section 1308.1), which relates to the payment of a fee; changing fund to which certain fee is deposited; amending 59 O.S. 1991, Section 1314, as amended by Section 2, Chapter 170, O.S.L. 1993 (59 O.S. Supp. 1997, Section 1314), which relates to the payment of a fee; changing fund to which certain fee is deposited; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 59 O.S. 1991, Section 1308.1, as amended by Section 2, Chapter 331, O.S.L. 1994 (59 O.S. Supp. 1997, Section 1308.1), is amended to read as follows:

Section 1308.1 A. In order to be eligible to take the examination required to be licensed as a bail bondsman, each person shall complete not less than sixteen (16) clock hours of education in subjects pertinent to the duties and responsibilities of a bail bondsman, including all laws and regulations related thereto. Further, each licensee shall complete annually not less than eight (8) clock hours of continuing education in said subjects prior to renewal of the license. Such continuing education shall not include a written or oral examination.

Provided, any person licensed as a bail bondsman prior to November 1, 1989, shall not be required to complete sixteen (16) clock hours of education prior to licensure but shall be subject to the eight-hours continuing education requirement in order to renew said license, except that a licensed bail bondsman who is sixty-five (65) years of age or older and who has been licensed as a bail bondsman for fifteen (15) years or more shall be exempt from both the education and continuing education requirements of this section.

B. The Oklahoma Bondsman Association shall provide education for bail bondsman licensure as required by this section; provided that the Insurance Commissioner shall approve the courses offered and provided further such education meets the general standards for education otherwise established by the Insurance Commissioner.

C. The Oklahoma Bondsman Association shall submit an annual fee of One Hundred Dollars (\$100.00), payable to the Insurance Commissioner which shall be deposited in the Bail Bondsmen Revolving Fund for the purposes of fulfilling and accomplishing the conditions and purposes of this section.

D. Any person who falsely represents to the Insurance Commissioner that compliance with this section has been met shall be subject, after notice and hearing, to the penalties and fines set out in Section 1310 of this title.

E. The Commissioner shall adopt and promulgate such rules as are necessary for effective administration of this section.

SECTION 2. AMENDATORY 59 O.S. 1991, Section 1314, as amended by Section 2, Chapter 170, O.S.L. 1993 (59 O.S. Supp. 1997, Section 1314), is amended to read as follows:

Section 1314. A. When a bail bondsman or managing general agent accepts collateral, he or she shall give a written receipt for same, and this receipt shall give in detail a full description of the collateral received. A description of the collateral shall be listed on the undertaking by affidavit. All property taken as collateral, whether personal, intangible or real, shall be receipted for and deemed, for all purposes, to be in the name of, and for the use and benefit of, the surety company or licensed professional bondsman, as the case may be. Every receipt, encumbrance, mortgage or other evidence of such custody, possession or claim shall facially indicate that it has been taken or made on behalf of the surety company or professional bondsman through its authorized agent, the individual licensed bondsman or managing general agent who has transacted the undertaking with the bond principal. Any mortgage or other encumbrance against real property taken under the provisions of this section which does not indicate beneficial ownership of the claim to be in favor of the surety company or professional bondsman shall be deemed to constitute a cloud on the title to real estate and shall subject the person filing, or causing same to be filed, in the real estate records of the county, to a penalty of treble damages or One Thousand Dollars (\$1,000.00), whichever is greater, in an action brought by the person, organization or corporation injured thereby. For collateral taken, or liens or encumbrances taken or made pursuant to the provisions of this section, the individual bondsman or managing general agent taking possession of the property or making the lien, claim or encumbrance shall do so on behalf of his or her surety company or professional bondsman, as the case may be, and such individual licensed bondsman shall be deemed to act in the capacity of fiduciary in relation to both:

1. The principal or other person from whom such property is taken or claimed against, and

2. The surety company or professional bondsman whose agent the licensed bondsman is.

As fiduciary and bailee for hire, the individual bondsman shall be liable in criminal or civil actions at law for failure to properly receipt or account for, maintain or safeguard, release or deliver possession upon lawful demand, in addition to any other penalties set forth in this subsection. No person who takes possession of property as collateral pursuant to this section shall use or otherwise dissipate such asset, or do otherwise with such property than to safeguard and maintain its condition pending its return to its lawful owner, or deliver to the surety company or professional bondsman, upon lawful demand pursuant to the terms of the bailment.

B. Every licensed bondsman shall file monthly by mail with return receipt requested with the Insurance Commissioner and on forms prescribed by the Commissioner as follows:

1. A notarized monthly report showing every bond written, amount of bond, whether released or revoked during each month, showing the court and county, and the style and number of the case, premiums charged and collateral received; and

2. Professional bondsmen shall submit by mail with return receipt requested notarized monthly reports showing total current liabilities, all bonds written during the month by the professional bondsman and by any licensed bondsman who may countersign for him or her, all bonds terminated during the month, and the total liability and a list of all bondsmen currently employed by such professional bondsmen.

Monthly reports shall be postmarked or stamped "received" by the Insurance Commissioner by the fifteenth day of each month. Said records shall be maintained by the Commissioner as public records.

C. Every licensee shall keep at his or her place of business the usual and customary records pertaining to transactions authorized by his or her license. All such records shall be available and open to the inspection of the Commissioner at any time during business hours during the three (3) years immediately following the date of the transaction. The Commissioner may require a financial examination or market conduct survey during any investigation of a licensee.

D. Each bail bondsman shall submit each month with his or her monthly report, a renewal fee equal to two-tenths of one percent (2/10 of 1%) of the new liability written for that month. Such fee shall be payable to the Insurance Commissioner who shall deposit same with the State Treasurer, who shall place the monies to the credit of the Bail Bondsmen Revolving Fund. The monies so deposited shall be used for the further regulation of bail bonds pursuant to the provisions of this act.

SECTION 3. This act shall become effective July 1, 1998.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.