STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

COMMITTEE SUBSTITUTE
FOR
SENATE BILL 1122 By: Stipe

COMMITTEE SUBSTITUTE

[Bail bondsmen - adding to grounds for sanctions- effective date -

emergency]

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

SECTION 1. AMENDATORY 59 O.S. 1991, Section 1310, as last amended by Section 121, Chapter 418, O.S.L. 1997 (59 O.S. Supp. 1999, Section 1310), is amended to read as follows:

Section 1310. A. The Insurance Commissioner may deny, censure, suspend, revoke, or refuse to renew any license issued under Section 1301 et seq. of this title for any of the following causes:

1. ~~For any~~ Any cause for ~~which issuance of~~ refusal to issue the license ~~could have been refused~~;

2. Violation of any laws of this state or any lawful rule, regulation, or order of the Commissioner relating to bail;

3. Material misstatement, misrepresentation, or fraud in obtaining the license;

4. Misappropriation, conversion, or unlawful withholding of monies or property belonging to insurers, insureds, or others received in the conduct of business under the license;

5. Conviction of~~,~~ or having entered a plea of guilty or nolo contendere to~~,~~ any felony or to a misdemeanor involving moral turpitude or dishonesty;

6. Fraudulent or dishonest practices in conducting business under the license;

7. Failure to comply with, or violation of any proper order, rule, or regulation of the Commissioner;

8. ~~Recommending~~ Recommendation of any particular attorney-at-law to handle a case in which the bail bondsman has caused a bond to be issued under the terms of Section 1301 et seq. of this title;

9. When, in the judgment of the Commissioner, the licensee has, in the conduct of affairs under the license, demonstrated incompetency, or untrustworthiness, or conduct or practices rendering the licensee unfit to carry on the bail bond business or making continuance in the business detrimental to the public interest, or that the licensee is no longer in good faith carrying on the bail bond business, or that the licensee is guilty of rebating, or offering to rebate, or dividing with someone other than a licensed bail bondsman, or offering to divide commissions in the case of limited surety agents, or premiums in the case of professional bondsmen, and for this conduct is found by the Commissioner to be a source of detriment, injury, or loss to the public;

10. ~~For any~~ Any materially untrue statement in the license application;

11. Misrepresentation of the terms of any actual or proposed bond;

12. ~~For forging~~ Forging the name of another to a bond or application for bond;

13. Cheating on an examination for licensure;

14. ~~Soliciting~~ Solicitation of business in or about any place where prisoners are confined, arraigned, or in custody;

15. ~~For paying~~ Payment of a fee or rebate, or giving or promising anything of value to a jailer, trustee, police officer, law enforcement officer, or other officer of the law, 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 estreatment thereof, or to secure delay or other advantage. This shall not apply to a jailer, police officer, or officer of the law who is not on duty and who assists in the apprehension of a defendant;

16. ~~For paying~~ Payment of a fee or ~~rebating~~ rebate, or giving anything of value to an attorney in bail bond matters, except in defense of an action on a bond;

17. ~~For paying~~ Payment of a fee or ~~rebating~~ rebate, or giving or promising anything of value to the principal or anyone in the principal's behalf;

18. ~~Participating~~ Participation in the capacity of an attorney at a trial or hearing for one on whose bond the licensee is surety;

19. ~~Accepting~~ Acceptance of anything of value from a principal, other than the premium; provided, the bondsman shall be permitted to accept collateral security or other indemnity from the principal which shall be returned immediately upon final termination of liability on the bond and upon satisfaction of all terms, conditions, and obligations contained within the indemnity agreement. Collateral security or other indemnity required by the bondsman shall be reasonable in relation to the amount of the bond;

20. Willful failure to return collateral security to the principal when the principal is entitled thereto;

21. ~~For failing~~ Failure to notify the Commissioner of a change of address, as noted on the license, within five (5) days after a change is made, or ~~failing~~ failure to respond to a properly mailed notification within a reasonable amount of time;

22. ~~For failing~~ Failure to file a report as required by Section 1314 of this title;

23. ~~For filing~~ Filing a materially untrue monthly report;

24. ~~For filing~~ Filing false affidavits regarding cancellation of the appointment of an insurer;

25. Forcing the Commissioner to withdraw deposited monies to pay forfeitures or any other outstanding judgments;

26. ~~For failing~~ Failure to pay any fees to a district court clerk as are required by this title, or ~~failing~~ failure to pay any fees to a municipal court clerk as are required by this title or by Section 28-127 of Title 11 of the Oklahoma Statutes;

27. ~~For uttering~~ Uttering an insufficient check to the Insurance Commissioner for any fees, fines or other payments received by the Commissioner from the bail bondsman; ~~and~~

28. ~~For failing~~ Failure to pay travel expenses for the return of the defendant to custody once having guaranteed the expenses pursuant to the provisions of subparagraph d of paragraph 3 of subsection C of Section 1332 of this title; and

29. Failure to satisfy, pay, or otherwise discharge a bail forfeiture judgment pursuant to the provisions of Section 1332 of Title 59 of the Oklahoma Statutes.

B. In addition to any applicable denial, censure, suspension, or revocation of a license, any person violating any provision of Section 1301 et seq. of this title may be subject to a civil penalty of not less than One Hundred Dollars ($100.00) nor more than One Thousand Dollars ($1,000.00) for each occurrence. This fine may be enforced in the same manner in which civil judgments may be enforced. Any order for civil penalties entered by the Commissioner or authorized decision maker for the Insurance Department which has become final may be filed with the court clerk of Oklahoma County and shall then be enforced by the judges of said county.

C. No bail bondsman or bail bond agency shall advertise as or hold itself out to be a surety company.

D. If any bail bondsman is convicted by any court of a violation of any of the provisions of this act, the license of the individual shall therefore be deemed to be immediately revoked, without any further procedure relative thereto by the Commissioner.

E. For one (1) year after notification by the Commissioner of an alleged violation, or for two (2) years after the last day the person was licensed, whichever is the lesser period of time, the Commissioner shall retain jurisdiction as to any person who cancels his bail bondsman's license or allows the license to lapse, or otherwise ceases to be licensed, if the person while licensed as a bondsman allegedly violated any provision of this title. Notice and opportunity for hearing shall be conducted in the same manner as if the person still maintained a bondsman's license. If the Commissioner or a hearing examiner determines that a violation of the provisions of Sections 1301 through 1340 of this title occurred, any order issued pursuant to the determination shall become a permanent record in the file of the person and may be used if the person should request licensure or reinstatement.

F. Any law enforcement agency, district attorney's office, court clerk's office, or insurer that is aware that a licensed bail bondsman has been convicted of or has pleaded guilty or nolo contendere to any crime, shall notify the Insurance Commissioner of that fact.

SECTION 2. This act shall become effective November 1, 2000.

SECTION 3. 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.

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