STATE OF OKLAHOMA

2nd Session of the 50th Legislature (2006)

HOUSE BILL 2513 By: Terrill

AS INTRODUCED

An Act relating to bail bondsmen; amending 59 O.S. 2001, Sections 1305, as amended by Section 5, Chapter 204, O.S.L. 2003, 1306, as amended by Section 35, Chapter 307, O.S.L. 2002 and 1327, as last amended by Section 1, Chapter 71, O.S.L. 2005 (59 O.S. Supp. 2005, Sections 1305, 1306 and 1327), which relate to professional requirements for bail bondsmen; modifying requirements for initial application for licensing after a certain date; modifying certain financial requirements; modifying circumstances for which bondsman and insurer are exonerated for further liability; prohibiting certain act and providing penalty therefor; providing for codification; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 2001, Section 1305, as amended by Section 5, Chapter 204, O.S.L. 2003 (59 O.S. Supp. 2005, Section 1305), is amended to read as follows:

Section 1305. A. The application for license to serve as a bail bondsman must affirmatively show that the applicant:

1. Is a person who has reached the age of twenty-one (21) years;

2. Is of good character and reputation;

3. Has not been previously convicted of, or pled guilty or nolo contendere to, any felony, or to a misdemeanor involving moral turpitude or dishonesty;

4. Is a citizen of the United States;

5. Has been a bona fide resident of the state for at least one (1) year;

6. Will actively engage in the bail bond business;

7. Has knowledge or experience, or has received instruction in the bail bond business; ~~and~~

8. Has a high school diploma or its equivalent; provided, however, the provisions of this paragraph shall apply only to initial applications for license submitted on or after November 1, 1997, and shall not apply to renewal applications for license; and

9. Has successfully completed at least thirty (30) hours of college credit; provided, however, the provisions of this paragraph shall apply only to initial applications for license submitted on or after November 1, 2006, and shall not apply to renewal applications for license.

B. The applicant shall apply in writing on forms prepared and supplied by the Insurance Commissioner, and the Commissioner may propound any reasonable interrogatories to an applicant for a license pursuant to Section 1301 et seq. of this title, or on any renewal thereof, relating to qualifications, residence, prospective place of business and any other matters which, in the opinion of the Commissioner, are deemed necessary or expedient in order to protect the public and ascertain the qualifications of the applicant. The Commissioner may also conduct any reasonable inquiry or investigation relative to the determination of the applicant's fitness to be licensed or to continue to be licensed including, but not limited to, requiring a national criminal history record check as defined by Section 150.9 of Title 74 of the Oklahoma Statutes.

C. An applicant shall furnish to the Commissioner a license fee of Two Hundred Fifty Dollars ($250.00) with the application, a complete set of the applicant's fingerprints and two recent credential-size full face photographs of the applicant. The applicant's fingerprints shall be certified by an authorized law enforcement officer. The applicant shall provide with the application an investigative fee of One Hundred Dollars ($100.00)

with which the Commissioner will conduct an investigation of the applicant. All fees shall be nonrefundable.

D. Failure of the applicant to secure approval of the Commissioner shall not preclude the applicant from reapplying, but a second application shall not be considered by the Commissioner within three (3) months after denial of the last application.

SECTION 2. AMENDATORY 59 O.S. 2001, Section 1306, as amended by Section 35, Chapter 307, O.S.L. 2002 (59 O.S. Supp. 2005, Section 1306), is amended to read as follows:

Section 1306. A. 1. An applicant for a cash bondsman license shall meet all requirements set forth in Section 1305 of this title with exception of residence.

2. In addition to the requirements prescribed in Section 1305 of this title, an applicant for a professional bondsman license shall submit to the Insurance Commissioner financial statements prepared by an accounting firm or individual holding a permit to practice public accounting in this state in accordance with generally accepted principles of accounting procedures setting forth the total assets of the bondsman less liabilities and debts and which shall show a net worth of at least ~~Fifty Thousand Dollars ($50,000.00)~~ Two Hundred Fifty Thousand Dollars ($250,000.00), said statements to be current as of a date not earlier than ninety (90) days prior to submission of the application and the statement shall be attested to by an unqualified opinion of the accountant.

3. Professional bondsman applicants shall make a deposit with the Insurance Commissioner in the same manner as required of domestic insurance companies of an amount to be determined by the Commissioner, which shall not be less than ~~Twenty Thousand Dollars ($20,000.00)~~ Fifty Thousand Dollars ($50,000.00). Such deposits shall be subject to all laws, rules and regulations as deposits by domestic insurance companies but in no instance shall a professional bondsman write bonds which equal more than ten times the amount of

the deposit which such bondsman has submitted to the Commissioner. In addition, a professional bondsman may make the deposit by purchasing an annuity through a licensed domestic insurance company in the State of Oklahoma. The annuity shall be in the name of the bondsman as owner with legal assignment to the Insurance Commissioner. The assignment form shall be approved by the Commissioner. If a bondsman exceeds the above limitation, the bondsman shall be notified by the Commissioner by mail with return receipt requested that the excess shall be reduced or the deposit increased within ten (10) days of notification, or the license of the bondsman shall be suspended immediately after the ten-day period, pending a hearing on the matter.

4. The deposit herein provided for shall constitute a reserve available to meet sums due on forfeiture of any bonds or recognizance executed by such bondsman.

5. Any deposit made by a professional bondsman pursuant to this section shall be released and returned by the Commissioner to the professional bondsman only upon extinguishment of all liability on outstanding bonds.

6. No release of deposits to a professional bondsman shall be made by the Commissioner except upon written application and the written order of the Commissioner. The Commissioner shall have no liability for any such release to a professional bondsman provided the release was made in good faith.

B. The deposit provided in this section shall be held in safekeeping by the Insurance Commissioner and shall only be used if a bondsman fails to pay an order and judgment of forfeiture after being properly notified or shall be used if the license of a professional bondsman has been revoked. The deposit shall be held in the name of the Insurance Commissioner and the bondsman. The bondsman shall execute an assignment of the deposit to the Insurance Commissioner for the payment of unpaid bond forfeitures.

C. Currently licensed professional bondsmen may maintain their aggregate liability limits upon presentation of documented proof that they have previously been granted a limitation greater than the requirements of subsection A of this section.

D. Notwithstanding any other provision of Section 1301 et seq. of this title, the license of a professional bondsman is transferable upon the death or legal or physical incapacitation of the bondsman to the bondsman's spouse, or to such other transferee as the professional bondsman may designate in writing, and the transferee may elect to act as a professional bondsman until the expiration of the license or for a period of one hundred eighty (180) days, whichever is greater, if the following conditions are met:

1. The transferee must hold a valid license as a surety bondsman in this state; and

2. The asset and deposit requirements set forth in this section continue to be met.

SECTION 3. AMENDATORY 59 O.S. 2001, Section 1327, as last amended by Section 1, Chapter 71, O.S.L. 2005 (59 O.S. Supp. 2005, Section 1327), is amended to read as follows:

Section 1327. A. At any time before there has been a breach of the undertaking in any type of bail provided herein, the surety or bondsman may surrender the defendant, or the defendant may surrender himself or herself, to the official to whose custody the defendant was committed at the time bail was taken, or to the official into whose custody the defendant would have been given had he or she been committed. The defendant may be surrendered without the return of premium for the bond if he or she has been guilty of nonpayment of premium, changes address without notifying his or her bondsman, conceals himself or herself, leaves the jurisdiction of the court without the permission of his or her bondsman, or violates his or her contract with the bondsman in any way that does harm to the

bondsman, or the surety, or violates his or her obligation to the court. When a bondsman or surety surrenders a defendant pursuant to this subsection, the bondsman or surety shall file written notification of the surrender. After surrender, and upon filing of written notification of the surrender, the bond shall be exonerated and the clerk shall enter a minute in the case exonerating the bond.

B. If the defendant has been placed in custody of another jurisdiction, the district attorney shall direct a hold order to the official, judge or law enforcement agency where the defendant is in custody. All reasonable expenses accrued in returning the defendant to the original court shall be borne by the bondsman who posted the bond with that court. Upon application, the bond in the original court shall be exonerated when the hold order is placed and upon proof of payment of expenses by the bondsman.

C. If the defendant has been arrested on new charges and is in the custody of the same jurisdiction in which the bondsman or surety has posted an appearance bond or bonds for the defendant, and the bond or bonds have not been exonerated, and certified copies of bonds are not reasonably available, the bondsman or surety may recommit the defendant to be held in custody on the charges for which the bondsman or surety has previously posted appearance bonds thereon, in accordance with the following procedure:

1. On a Recommitment of Defendant by Bondsman form approved by the Administrative Office of the Courts, the bondsman or surety shall personally affix his or her signature to an affidavit attesting to the following:

a. the defendant is presently in the custody of the jurisdiction in which the bondsman or surety has posted a bond or bonds,

b. the case number, if any, assigned to each bond,

c. that the bond or bonds have not been exonerated, and

d. the specific charges and bond amount or amounts;

2. The bondsman or surety shall present the Recommitment of Defendant by Bondsman form to the official in whose custody the defendant is being held, and the official shall detain the defendant in his or her custody, thereon, as upon a commitment, and by a certificate in writing acknowledging the surrender; and

3. When a bondsman or surety recommits a defendant pursuant to this subsection, the bondsman or surety shall file a written notification thereof to the court, and after such notification, the bond or bonds shall be exonerated, and the clerk shall enter a minute in the case exonerating the bond or bonds.

D. When a defendant does appear before the court as required by law and enters a plea of guilty or nolo contendere, is sentenced or a deferred sentence is granted as provided for in Section 991c of Title 22 of the Oklahoma Statutes, is found guilty by a court or a jury or a voluntary plea of guilty or nolo contendere is entered, regardless of whether the finding of guilt is immediate or deferred, in any such event the undertaking and bondsman and insurer shall be exonerated from further liability.

SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1335.1 of Title 59, unless there is created a duplication in numbering, reads as follows:

It shall be unlawful for any principal, person in custody or defendant, or indemnitor to provide false information, including identity and physical address, on any undertaking or indemnification agreement. Violation of this section shall be a felony punishable by imprisonment for not more than two (2) years in the custody of a state correctional institution, by a fine of not more than Five Thousand Dollars ($5,000.00), or by both such imprisonment and fine.

SECTION 5. This act shall become effective November 1, 2006.

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