

1 ENGROSSED SENATE
2 BILL NO. 964

By: Brown of the Senate

and

Mulready of the House

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7 An Act relating to licensure of bail bondsmen;
8 amending 59 O.S. 2001, Sections 1304, 1305, as last
9 amended by Section 55, Chapter 222, O.S.L. 2010,
10 1308, 1308.1, 1309 and 1314, as last amended by
11 Section 58, Chapter 222, O.S.L. 2010 (59 O.S. Supp.
12 2010, Sections 1305 and 1314), which relate to
13 licensure of bail bondsmen; making licenses of bail
14 bondsmen expire biennially; specifying expiration
15 date of biennial licenses; requiring applications for
16 a bail bondsman license to be submitted
17 electronically; modifying certain bail bondsman
18 examination requirements; modifying certain fees and
19 certain continuing education requirements to reflect
20 change from annual to biennial license; requiring
21 certain fee to be prorated; allowing license to be
22 reinstated under certain conditions; requiring
23 licensed bondsman to file certain reports
24 electronically; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 2001, Section 1304, is
amended to read as follows:

Section 1304. All licenses of bail bondsmen issued shall expire
~~annually~~ biennially at 12:00 o'clock midnight on the last day of
~~September~~ the birth month of the bondsman, unless revoked or

1 suspended prior thereto by the Insurance Commissioner, or upon
2 notice served upon the Commissioner that the insurer or employer of
3 any bail bondsman has canceled the licensee's authority to act for
4 such insurer or employer.

5 SECTION 2. AMENDATORY 59 O.S. 2001, Section 1305, as
6 last amended by Section 55, Chapter 222, O.S.L. 2010 (59 O.S. Supp.
7 2010, Section 1305), is amended to read as follows:

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

- 10 1. Is a person who has reached the age of twenty-one (21)
11 years;
- 12 2. Is of good character and reputation;
- 13 3. Has not been previously convicted of, or pled guilty or nolo
14 contendere to, any felony, or to a misdemeanor involving moral
15 turpitude or dishonesty;
- 16 4. Is a citizen of the United States;
- 17 5. Has been a bona fide resident of the state for at least one
18 (1) year;
- 19 6. Will actively engage in the bail bond business;
- 20 7. Has knowledge or experience, or has received instruction in
21 the bail bond business; and
- 22 8. Has a high school diploma or its equivalent; provided,
23 however, the provisions of this paragraph shall apply only to
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1 initial applications for license submitted on or after November 1,
2 1997, and shall not apply to renewal applications for license.

3 B. The applicant shall apply ~~in writing~~ electronically on forms
4 ~~prepared and supplied~~ approved by the Insurance Commissioner, and
5 the Commissioner may propound any reasonable interrogatories to an
6 applicant for a license pursuant to Sections 1301 through 1340 of
7 this title, or on any renewal thereof, relating to qualifications,
8 residence, prospective place of business and any other matters
9 which, in the opinion of the Commissioner, are deemed necessary or
10 expedient in order to protect the public and ascertain the
11 qualifications of the applicant. The Commissioner may also conduct
12 any reasonable inquiry or investigation relative to the
13 determination of the fitness of the applicant to be licensed or to
14 continue to be licensed including, but not limited to, requiring a
15 national criminal history record check as defined by Section 150.9
16 of Title 74 of the Oklahoma Statutes.

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

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

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

7 E. The fee for a duplicate pocket license shall be Twenty-five
8 Dollars (\$25.00).

9 SECTION 3. AMENDATORY 59 O.S. 2001, Section 1308, is
10 amended to read as follows:

11 Section 1308. A. The applicant for bail bondsman shall be
12 required to appear in person and take ~~a written~~ an examination
13 prepared by the Insurance Commissioner, testing the applicant's
14 ability and qualifications to be a bail bondsman. Applications are
15 valid for six (6) months after submission. If an applicant has not
16 acted upon the application within that period, a new application and
17 fees shall be submitted for the applicant to be considered for
18 licensure.

19 B. Each applicant shall become eligible for examination ~~ninety~~
20 ~~(90) days after the date the application is received by the~~
21 ~~Commissioner,~~ if the applicant has completed sixteen (16) hours of
22 education as required by Section 1308.1 of this title ~~and the~~
23 ~~Commissioner is otherwise satisfied as to the applicant's fitness to~~
24 ~~take~~ prior to the examination. Examinations shall be held at times

1 and places as designated by the Commissioner, ~~and the applicant~~
2 ~~shall be given notice of the time and place not less than fifteen~~
3 ~~(15) days prior to taking the examination.~~

4 C. The fee for the examination shall be One Hundred Dollars
5 (\$100.00) ~~in addition to the license fee heretofore provided and~~
6 ~~shall be submitted after approval of the application but prior to~~
7 ~~taking the examination.~~ Results will be mailed to the applicant
8 ~~within thirty (30) days~~ provided after the applicant is examined.

9 D. The failure of an applicant to pass an examination shall not
10 preclude the applicant from taking subsequent examinations;
11 provided, however, that at least ~~three (3) months~~ thirty (30) days
12 must intervene between examinations; and provided further, after a
13 third or subsequent examination failure, an applicant may not ~~apply~~
14 ~~and~~ be examined for at least one (1) year after the last examination
15 failure.

16 SECTION 4. AMENDATORY 59 O.S. 2001, Section 1308.1, is
17 amended to read as follows:

18 Section 1308.1 A. In order to be eligible to take the
19 examination required to be licensed as a bail bondsman, each person
20 shall complete not less than sixteen (16) clock hours of education
21 in subjects pertinent to the duties and responsibilities of a bail
22 bondsman, including all laws and ~~regulations~~ rules related thereto.
23 Further, each licensee shall complete ~~annually~~ biennially not less
24 than ~~eight (8)~~ sixteen (16) clock hours of continuing education in

1 said subjects prior to renewal of the license. Such continuing
2 education shall not include a written or oral examination.

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

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

16 C. The Oklahoma Bondsman Association shall submit ~~an annual~~
17 biennially a fee of ~~One Hundred Dollars (\$100.00)~~ Two Hundred
18 Dollars (\$200.00), payable to the Insurance Commissioner, which
19 shall be deposited ~~in the Bail Bondsmen Revolving Fund~~ with the
20 State Treasurer for the purposes of fulfilling and accomplishing the
21 conditions and purposes of this section.

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

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

5 SECTION 5. AMENDATORY 59 O.S. 2001, Section 1309, is
6 amended to read as follows:

7 Section 1309. A. A renewal license shall be issued by the
8 Insurance Commissioner to a licensee who has continuously maintained
9 same in effect, without further examination, upon payment of a
10 renewal fee of ~~One Hundred Dollars (\$100.00)~~ Two Hundred Dollars
11 (\$200.00) for a bail bondsman and proof of completion of ~~eight (8)~~
12 sixteen (16) hours of continuing education as required by Section
13 1308.1 of this title. The renewal fee for licenses expiring
14 September 15, 2012, shall be prorated to the birth month of the
15 bondsman. Thereafter the renewal fee shall be submitted by
16 September 15 of each year biennially by the last day of the birth
17 month of the bondsman. Such licensee shall in all other respects be
18 required to comply with and be subject to the provisions of Section
19 1301 et seq. of this title.

20 B. In case of renewal of a professional bondsman license, the
21 application shall also provide a financial statement prepared by an
22 accounting firm or individual holding a permit to practice public
23 accounting in this state in accordance with generally accepted
24 principles of accounting procedures showing assets, liabilities, and

1 net worth, ~~said~~ the statement to be as of a date not earlier than
2 ninety (90) days prior to submission of the license renewal
3 application. The statements shall be attested to by an unqualified
4 opinion of the accounting firm or individual holding a permit to
5 practice public accounting in this state that prepared the statement
6 or statements. The statement shall be submitted ~~by September 15 of~~
7 ~~each year~~ annually by the last day of the birth month of the
8 bondsman.

9 C. In case of renewal of a property bondsman license, the
10 application shall also provide a county assessor's written statement
11 stating the property's assessed value for each property used to post
12 bonds and a written statement from any lien holder stating the
13 current payoff amount on each lien for each property used to post
14 bonds. The written statements shall be submitted ~~by September 15 of~~
15 ~~each year~~ annually by the last day of the birth month of the
16 bondsman.

17 D. If the license is not renewed or the renewal fee is not paid
18 ~~by September 30 of each year~~ the last day of the birth month of the
19 bondsman, ~~such~~ the license shall expire automatically pursuant to
20 Section 1304 of this title. ~~If after November 30 of each year the~~
21 ~~license has not been renewed or the renewal fee paid, then such~~
22 ~~licensee shall be required to apply for a license as a new applicant~~
23 After expiration, the license may be reinstated for up to one (1)
24 year following the expiration date. If after the one-year date the

1 license has not been renewed, the licensee shall be required to
2 apply for a license as a new applicant.

3 E. ~~Late renewal~~ Reinstatement fees shall be double the original
4 fee.

5 SECTION 6. AMENDATORY 59 O.S. 2001, Section 1314, as
6 last amended by Section 58, Chapter 222, O.S.L. 2010 (59 O.S. Supp.
7 2010, Section 1314), is amended to read as follows:

8 Section 1314. A. When a bail bondsman or managing general
9 agent accepts collateral, the bail bondsman or managing general
10 agent shall give a written receipt for same, and this receipt shall
11 give in detail a full description of the collateral received. A
12 description of the collateral shall be listed on the undertaking by
13 affidavit. All property taken as collateral, whether personal,
14 intangible or real, shall be receipted for and deemed, for all
15 purposes, to be in the name of, and for the use and benefit of, the
16 surety company or licensed professional bondsman, as the case may
17 be. Every receipt, encumbrance, mortgage or other evidence of the
18 custody, possession or claim shall facially indicate that it has
19 been taken or made on behalf of the surety company or professional
20 bondsman through its authorized agent, the individual licensed
21 bondsman or managing general agent who has transacted the
22 undertaking with the bond principal. Any mortgage or other
23 encumbrance against real property taken under the provisions of this
24 section which does not indicate beneficial ownership of the claim to

1 be in favor of the surety company or professional bondsman shall be
2 deemed to constitute a cloud on the title to real estate and shall
3 subject the person filing, or causing same to be filed, in the real
4 estate records of the county, to a penalty of treble damages or One
5 Thousand Dollars (\$1,000.00), whichever is greater, in an action
6 brought by the person, organization or corporation injured thereby.
7 For collateral taken, or liens or encumbrances taken or made
8 pursuant to the provisions of this section, the individual bondsman
9 or managing general agent taking possession of the property or
10 making the lien, claim or encumbrance shall do so on behalf of the
11 surety company or professional bondsman, as the case may be, and the
12 individual licensed bondsman shall be deemed to act in the capacity
13 of fiduciary in relation to both:

14 1. The principal or other person from whom the property is
15 taken or claimed against; and

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

18 As fiduciary and bailee for hire, the individual bondsman shall
19 be liable in criminal or civil actions at law for failure to
20 properly receipt or account for, maintain or safeguard, release or
21 deliver possession upon lawful demand, in addition to any other
22 penalties set forth in this subsection. No person who takes
23 possession of property as collateral pursuant to this section shall
24 use or otherwise dissipate the asset, or do otherwise with the

1 property than to safeguard and maintain its condition pending its
2 return to its lawful owner, or deliver to the surety company or
3 professional bondsman, upon lawful demand pursuant to the terms of
4 the bailment.

5 B. Every licensed bondsman shall file ~~monthly by mail with~~
6 ~~return receipt requested~~ electronically each month with the
7 Insurance Commissioner and on forms ~~prescribed~~ approved by the
8 Commissioner as follows:

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

13 2. Professional bondsmen shall submit ~~by mail with return~~
14 ~~receipt requested notarized~~ electronic monthly reports showing total
15 current liabilities, all bonds written during the month by the
16 professional bondsman and by any licensed bondsman who may
17 countersign for the professional bondsman, all bonds terminated
18 during the month, and the total liability and a list of all bondsmen
19 currently employed by the professional bondsmen.

20 Monthly reports shall be ~~postmarked or stamped "received"~~ by
21 submitted electronically to the Insurance Commissioner by the
22 fifteenth day of each month. The records shall be maintained by the
23 Commissioner as public records.

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

9 D. Each bail bondsman shall submit each month with the monthly
10 report of the bondsman, a reviewal fee equal to two-tenths of one
11 percent (2/10 of 1%) of the new liability written for that month.
12 The fee shall be payable to the Insurance Commissioner who shall
13 deposit same with the State Treasurer.

14 SECTION 7. This act shall become effective November 1, 2011.

15 Passed the Senate the 10th day of March, 2011.

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18 Presiding Officer of the Senate

19 Passed the House of Representatives the ____ day of _____,
20 2011.

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22 _____
23 Presiding Officer of the House
24 of Representatives