

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 54th Legislature (2014)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2407

By: Bennett

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8 COMMITTEE SUBSTITUTE

9
10 An Act relating to bail bondsman; amending 59 O.S.
11 2011, Section 1301, which relates to definitions;
12 adding definition; amending 59 O.S. 2011, Section
13 1305, as amended by Section 1, Chapter 82, O.S.L.
14 2012 (59 O.S. Supp. 2013, Section 1305), which
15 relates to application for licensure; adding fee for
16 multicounty agent bondsman; stating procedure for
17 licensure and qualifications for multicounty agent
18 bondsman; requiring certain deposit; providing
19 procedure for release of deposit; authorizing
20 transfer of certain license upon certain conditions;
21 providing no limitation on number of bonds for
22 certain licensee; amending 59 O.S. 2011, Section
23 1309, as last amended by Section 3, Chapter 150,
24 O.S.L. 2013 (59 O.S. Supp. 2013, Section 1309), which
 relates to renewal of licenses; adding new fee;
 requiring annual financial statement for certain
 licenses; amending 59 O.S. 2011, Section 1314, which
 relates to reports; requiring monthly reports;
 providing for codification; providing an effective
 date; and declaring an emergency.

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

23 SECTION 1. AMENDATORY 59 O.S. 2011, Section 1301, is

24 amended to read as follows:

1 Section 1301. A. ~~This act~~ Sections 1301 through 1340 of this
2 title shall only apply to the regulation of bail bonds for crimes,
3 the punishment of which may be in excess of Twenty Dollars (\$20.00)
4 fine or twenty (20) days in jail, or both such fine and
5 imprisonment.

6 B. As used in ~~this act~~ Sections 1301 through 1340 of this
7 title:

8 1. "Commissioner" means the Insurance Commissioner of the State
9 of Oklahoma;

10 2. "Clerk" means the district or municipal court clerk;

11 3. "Insurer" means any domestic, foreign or alien surety
12 company which has qualified generally to transact surety business
13 and specifically to transact bail bond business in this state;

14 4. "Bail bondsman" means a surety bondsman, professional
15 bondsman, property bondsman, or a cash bondsman as hereinafter
16 defined;

17 5. "Surety bondsman" means any person who has been approved by
18 the Commissioner and appointed by an insurer or a professional
19 bondsman, by power of attorney, to execute or countersign bail bonds
20 for the insurer or a professional bondsman, in connection with
21 judicial proceedings and charges and receives money for his or her
22 services;

23 6. "Managing general agent" (M.G.A.) means any person acting in
24 the capacity of supervisor or manager over a licensed bondsman, who

1 has been granted the authority or responsibility by a surety company
2 to conduct surety business on its behalf, and to oversee the
3 activities and conduct of the surety's appointed licensed bondsman
4 agents, and who generally functions as an intermediate manager
5 between the surety and its licensed bondsman agents. A managing
6 general agent fulfilling these functions shall be a natural person,
7 shall meet the qualifications of paragraph 5 of this subsection and
8 shall be licensed as a bondsman;

9 7. "Professional bondsman" means any person who has been
10 approved by the Commissioner and who pledges cash as security for a
11 bail bond in connection with a judicial proceeding and charges and
12 receives money for his or her services;

13 8. "Property bondsman" means any person who has been approved
14 by the Commissioner and who pledges real property as security for a
15 bail bond in a judicial proceeding and charges and receives money
16 for his or her services;

17 9. "Cash bondsman" means any person who has been approved by
18 the Commissioner and who deposits cash money as security for a bail
19 bond in a judicial proceeding and charges and receives money for his
20 or her services;

21 10. "Escrow deposit" means cash or valuable security deposited
22 by an insurer of a surety bondsman or professional bondsman to
23 secure the face amount of forfeiture pending appeal;

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1 11. "Solicitation" means to ask for earnestly, seek to obtain
2 by persuasion or entreaty, implore, beseech, tempt or entice a
3 person directly or through another person by personal, mechanical,
4 printed or published means to purchase a bail bond. Solicitation
5 shall not include mass communication advertising, which shall
6 include, but not be limited to, television, newspapers, magazines
7 and billboards; ~~and~~

8 12. "Bond" means an appearance bond for a specified monetary
9 amount which is executed by the defendant and a licensed bondsman
10 pursuant to the provisions of Section 1301 et seq. of this title and
11 which is issued to a court clerk as security for the subsequent
12 court appearance of the defendant upon release from actual custody
13 pending the appearance; and

14 13. "Multicounty agent bondsman" means a professional bondsman
15 who has been approved by the Commissioner and who otherwise complies
16 with the provisions of Section 1306 of this title.

17 SECTION 2. AMENDATORY 59 O.S. 2011, Section 1305, as
18 amended by Section 1, Chapter 82, O.S.L. 2012 (59 O.S. Supp. 2013,
19 Section 1305), is amended to read as follows:

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

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

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1 2. Is competent, trustworthy, financially responsible, and is
2 of good personal and business reputation and character;

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

6 4. Is a citizen of the United States;

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

9 6. Will actively engage in the bail bond business;

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

12 8. Has a high school diploma or its equivalent; provided,
13 however, the provisions of this paragraph shall apply only to
14 initial applications for license submitted on or after November 1,
15 1997, and shall not apply to renewal applications for license.

16 B. The applicant shall apply electronically on forms approved
17 by the Insurance Commissioner, and the Commissioner may propound any
18 reasonable interrogatories to an applicant for a license pursuant to
19 Sections 1301 through 1340 of this title, or on any renewal thereof,
20 relating to qualifications, residence, prospective place of business
21 and any other matters which, in the opinion of the Commissioner, are
22 deemed necessary or expedient in order to protect the public and
23 ascertain the qualifications of the applicant. The Commissioner may
24 also conduct any reasonable inquiry or investigation relative to the

1 determination of the fitness of the applicant to be licensed or to
2 continue to be licensed including, but not limited to, requiring a
3 national criminal history record check as defined by Section 150.9
4 of Title 74 of the Oklahoma Statutes. The Commissioner may require
5 any documents reasonably necessary to verify the information in the
6 application.

7 C. An applicant shall furnish to the Commissioner a license fee
8 of Two Hundred Fifty Dollars (\$250.00) with the application, a
9 complete set of the fingerprints of the applicant and two recent
10 credential-size full face photographs of the applicant. The
11 fingerprints of the applicant shall be certified by an authorized
12 law enforcement officer. The applicant shall provide with the
13 application an investigative fee of One Hundred Dollars (\$100.00)
14 with which the Commissioner will conduct an investigation of the
15 applicant. All fees shall be nonrefundable.

16 D. In addition to the license fee set forth in subsection C of
17 this section, an applicant for a multicounty agent bondsman license
18 shall furnish to the Commissioner a license fee of Seven Hundred
19 Fifty Dollars (\$750.00).

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

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1 ~~E.~~ F. The fee for a duplicate pocket license shall be Twenty-
2 five Dollars (\$25.00).

3 SECTION 3. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 1306A of Title 59, unless there
5 is created a duplication in numbering, reads as follows:

6 A. 1. An applicant for a multicounty agent bondsman license
7 shall have been continually licensed as a professional bondsman in
8 the State of Oklahoma for a minimum of two (2) years immediately
9 prior to the date of application.

10 2. In addition to the requirements prescribed in Sections 1305
11 and 1306 of Title 59 of the Oklahoma Statutes, an applicant for a
12 multicounty agent bondsman license shall submit to the Insurance
13 Commissioner a financial statement prepared by an accounting firm or
14 individual holding a permit to practice public accounting in this
15 state in accordance with the generally accepted principles of
16 accounting procedures setting forth the total assets of the bondsman
17 less liabilities and debts. For initial applications and for
18 subsequent renewals of the license, the statement shall show a net
19 worth of at least Two Hundred Fifty Thousand Dollars (\$250,000.00).
20 The statement shall be current as of a date not earlier than ninety
21 (90) days prior to submission of the application and the statement
22 shall be attested to by an unqualified opinion of the accountant.

23 3. Multicounty agent bondsman applicants shall make a deposit
24 with the Insurance Commissioner in the same manner as required of

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 domestic insurance companies. The deposit shall not be less than
2 One Hundred Thousand Dollars (\$100,000.00). Provided however, any
3 and all deposits made pursuant to paragraph 3 of subsection A of
4 Section 1306 of Title 59 of the Oklahoma Statutes shall count toward
5 the fulfillment of any deposit amount required by this section. The
6 deposit shall be subject to all laws, rules, and regulations as
7 deposits by domestic insurance companies but in no instance, except
8 as provided herein, shall a multicounty agent bondsman write bonds
9 which equal more than twelve times the amount of the deposit which
10 the bondsman has submitted to the Commissioner; provided however,
11 any currently licensed professional bondsman in good standing with
12 the Department and who, on the effective date of this act, meets the
13 provisions of the grandfather clause set forth in Section 1306 of
14 Title 59 of the Oklahoma Statutes and who otherwise meets the
15 requirements of this section shall be afforded the same liability
16 ratio as that of such grandfathered professional bondsman. Such
17 deposit shall require the review and approval of the Insurance
18 Commissioner prior to exceeding the maximum amount of Federal
19 Deposit Insurance Corporation basic deposit coverage for any one
20 bank or financial institution. In addition, a multicounty agent
21 bondsman may make the deposit by purchasing an annuity through a
22 licensed domestic insurance company in the State of Oklahoma. The
23 annuity shall be in the name of the bondsman as owner with legal
24 assignment to the Insurance Commissioner. The assignment form shall

1 be approved by the Commissioner. If a bondsman exceeds the above
2 limitation, the bondsman shall be notified by the Commissioner that
3 the excess shall be reduced or the deposit increased within ten (10)
4 days of notification, or the license of the bondsman shall be
5 suspended immediately after the ten-day period, pending a hearing on
6 the matter.

7 4. The deposit provided for in this section shall constitute a
8 reserve available to meet sums due on forfeiture of any bonds or
9 recognizance executed by the bondsman.

10 5. Any deposit made by a multicounty agent bondsman pursuant to
11 this section shall be released and returned by the Commissioner to
12 the multicounty agent bondsman only upon extinguishment of all
13 liability on outstanding bonds. Provided, however, the Commissioner
14 shall have the authority to review specific financial circumstances
15 and history of a multicounty agent bondsman, on a case-by-case
16 basis, and may release a portion of the deposit if warranted. The
17 Commissioner may promulgate rules to effectuate the provisions of
18 this paragraph.

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

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1 B. The deposit provided in this section shall be held in
2 safekeeping by the Insurance Commissioner and shall only be used if
3 a bondsman fails to pay an order and judgment of forfeiture after
4 being properly notified or shall be used if the license of a
5 multicounty agent bondsman has been revoked. The deposit shall be
6 held in the name of the Insurance Commissioner and the bondsman.
7 The bondsman shall execute an assignment or pledge of the deposit to
8 the Insurance Commissioner for the payment of unpaid bond
9 forfeitures.

10 C. Notwithstanding any other provision of Sections 1301 through
11 1340 of Title 59 of the Oklahoma Statutes, the license of a
12 multicounty agent bondsman is transferable upon the death or legal
13 or physical incapacitation of the bondsman to the spouse of the
14 bondsman or to such other transferee as the multicounty agent
15 bondsman may designate in writing, and the transferee may elect to
16 act as a multicounty agent bondsman for a period of one hundred
17 eighty (180) days if the following conditions are met:

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

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

22 D. A multicounty agent bondsman may appoint by power of
23 attorney a licensed surety bondsman as his or her agent to execute
24 bail bonds within any county in the State of Oklahoma. The number

1 of bail bonds a multicounty agent bondsman may insure in counties
2 other than the county he or she registers his or her license,
3 pursuant to subsection A of Section 1320 of Title 59 of the Oklahoma
4 Statutes, shall not be limited by subsection B of Section 1320 of
5 Title 59 of the Oklahoma Statutes.

6 SECTION 4. AMENDATORY 59 O.S. 2011, Section 1309, as
7 last amended by Section 3, Chapter 150, O.S.L. 2013 (59 O.S. Supp.
8 2013, Section 1309), is amended to read as follows:

9 Section 1309. A. A renewal license shall be issued by the
10 Insurance Commissioner to a licensee who has continuously maintained
11 same in effect, without further examination, upon payment of a
12 renewal fee of Two Hundred Dollars (\$200.00) for a cash, property,
13 surety, or professional bail bondsman or One Thousand Dollars
14 (\$1,000.00) for a multicounty agent bondsman, and proof of
15 completion of sixteen (16) hours of continuing education as required
16 by Section 1308.1 of this title. The renewal fee for licenses
17 expiring September 15, 2012, shall be prorated to the birth month of
18 the bondsman. Thereafter the renewal fee shall be submitted
19 biennially by the last day of the birth month of the bondsman. Such
20 licensee shall in all other respects be required to comply with and
21 be subject to the provisions of Section 1301 et seq. of this title.

22 B. An individual holding a professional bondsman license or
23 multicounty agent bondsman license shall also provide an annual
24 financial statement prepared by an accounting firm or individual

1 holding a permit to practice public accounting in this state in
2 accordance with generally accepted principles of accounting
3 procedures showing assets, liabilities, and net worth, the annual
4 statement to be as of a date not earlier than ninety (90) days prior
5 to September 30. The statements shall be attested to by an
6 unqualified opinion of the accounting firm or individual holding a
7 permit to practice public accounting in this state that prepared the
8 statement or statements. The statement shall be submitted annually
9 by the last day of September.

10 C. An individual holding a property bondsman license shall also
11 provide an annual county assessor's written statement stating the
12 property's assessed value for each property used to post bonds and a
13 written statement from any lien holder stating the current payoff
14 amount on each lien for each property used to post bonds. The
15 written statements shall be submitted annually by the last day of
16 September.

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

24 E. Reinstatement fees shall be double the original fee.

1 SECTION 5. AMENDATORY 59 O.S. 2011, Section 1314, is
2 amended to read as follows:

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

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

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

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

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

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1 professional bondsman, upon lawful demand pursuant to the terms of
2 the bailment.

3 B. Every licensed bondsman shall file monthly electronically
4 with the Insurance Commissioner and on forms approved by the
5 Commissioner as follows:

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

10 2. Professional bondsmen and multicounty agent bondsmen shall
11 submit electronic monthly reports showing total current liabilities,
12 all bonds written during the month by the professional bondsman or
13 multicounty agent bondsman and by any licensed bondsman who may
14 countersign for the professional bondsman or multicounty agent
15 bondsman, all bonds terminated during the month, and the total
16 liability and a list of all bondsmen currently employed by the
17 professional bondsmen.

18 Monthly reports shall be submitted electronically to the
19 Insurance Commissioner by the fifteenth day of each month. The
20 records shall be maintained by the Commissioner as public records.

21 C. Every licensee shall keep at the place of business of the
22 licensee the usual and customary records pertaining to transactions
23 authorized by the license. All of the records shall be available
24 and open to the inspection of the Commissioner at any time during

1 business hours during the three (3) years immediately following the
2 date of the transaction. The Commissioner may require a financial
3 examination or market conduct survey during any investigation of a
4 licensee.

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

10 SECTION 6. This act shall become effective July 1, 2014.

11 SECTION 7. It being immediately necessary for the preservation
12 of the public peace, health and safety, an emergency is hereby
13 declared to exist, by reason whereof this act shall take effect and
14 be in full force from and after its passage and approval.

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16 COMMITTEE REPORT BY: COMMITTEE ON GENERAL GOVERNMENT, dated
17 02/17/2014 - DO PASS, As Amended.

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