

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 COMMITTEE SUBSTITUTE

4 FOR

5 SENATE BILL NO. 976

6 By: Allen

7 COMMITTEE SUBSTITUTE

8 An Act relating to bondsmen; amending Section 3,  
9 Chapter 53, O.S.L. 2014, as amended by Section 2,  
10 Chapter 110, O.S.L. 2015, and as renumbered by  
11 Section 13, Chapter 110, O.S.L. 2015 and 59 O.S.  
12 2011, Section 1327, as amended by Section 23, Chapter  
13 407, O.S.L. 2013 (59 O.S. Supp. 2015, Sections 1306.1  
14 and 1327), which relate to multicounty agent bondsmen  
15 and surrender of defendant and exoneration of bonds;  
16 requiring certain conditions prior to application;  
17 modifying circumstances required for exoneration of  
18 certain bonds; and providing an effective date.

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

20 SECTION 1. AMENDATORY Section 3, Chapter 53, O.S.L.  
21 2014, as amended by Section 2, Chapter 110, O.S.L. 2015, and as  
22 renumbered by Section 13, Chapter 110, O.S.L. 2015 (59 O.S. Supp.  
23 2015, Section 1306.1), is amended to read as follows:

24 Section 1306.1. A. 1. An applicant for a multicounty agent  
bondsmen license shall have been continually licensed as a  
professional bondsman in the State of Oklahoma for a minimum of two

1 (2) years ~~immediately~~ without suspension or having any unpaid  
2 forfeitures prior to the date of application.

3 2. In addition to the requirements prescribed in Sections 1305  
4 and 1306 of this title, an applicant for a multicounty agent  
5 bondsman license shall submit to the Insurance Commissioner an  
6 annual audited financial statement prepared by an accounting firm or  
7 individual holding a permit to practice public accounting in this  
8 state in accordance with the Statements on Auditing Standards  
9 promulgated by the Auditing Standards Board of the American  
10 Institute of Certified Public Accountants setting forth the total  
11 assets of the bondsman less liabilities and debts. For initial  
12 applications and for subsequent renewals of the license, the  
13 statement shall show a net worth of at least Two Hundred Fifty  
14 Thousand Dollars (\$250,000.00). The statement shall be current as  
15 of a date not earlier than ninety (90) days prior to submission of  
16 the application and the statement shall be attested to by an  
17 unqualified opinion of the accountant.

18 3. Multicounty agent bondsman applicants shall make a deposit  
19 with the Insurance Commissioner in the same manner as required of  
20 domestic insurance companies. The deposit shall not be less than  
21 One Hundred Thousand Dollars (\$100,000.00). Provided however, any  
22 and all deposits made pursuant to paragraph 3 of subsection A of  
23 Section 1306 of this title shall count toward the fulfillment of any  
24 deposit amount required by this section. The deposit shall be

1 subject to all laws, rules, and regulations as deposits by domestic  
2 insurance companies but in no instance, except as provided herein,  
3 shall a multicounty agent bondsman write bonds which equal more than  
4 twelve times the amount of the deposit which the bondsman has  
5 submitted to the Commissioner; provided however, any currently  
6 licensed professional bondsman in good standing with the Department  
7 and who, on the effective date of this act, meets the provisions of  
8 the grandfather clause set forth in Section 1306 of this title and  
9 who otherwise meets the requirements of this section shall be  
10 afforded the same liability ratio as that of such grandfathered  
11 professional bondsman. Such deposit shall require the review and  
12 approval of the Insurance Commissioner prior to exceeding the  
13 maximum amount of Federal Deposit Insurance Corporation basic  
14 deposit coverage for any one bank or financial institution. In  
15 addition, a multicounty agent bondsman may make the deposit by  
16 purchasing an annuity through a licensed domestic insurance company  
17 in the State of Oklahoma. The annuity shall be in the name of the  
18 bondsman as owner with legal assignment to the Insurance  
19 Commissioner. The assignment form shall be approved by the  
20 Commissioner. If a bondsman exceeds the above limitation, the  
21 bondsman shall be notified by the Commissioner that the excess shall  
22 be reduced or the deposit increased within ten (10) days of  
23 notification, or the license of the bondsman shall be suspended  
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1 immediately after the ten-day period, pending a hearing on the  
2 matter.

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

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

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

20 B. The deposit provided in this section shall be held in  
21 safekeeping by the Insurance Commissioner and shall only be used if  
22 a bondsman fails to pay an order and judgment of forfeiture after  
23 being properly notified or shall be used if the license of a  
24 multicounty agent bondsman has been revoked. The deposit shall be

1 held in the name of the Insurance Commissioner and the bondsman.

2 The bondsman shall execute an assignment or pledge of the deposit to  
3 the Insurance Commissioner for the payment of unpaid bond  
4 forfeitures.

5 C. Notwithstanding any other provision of Sections 1301 through  
6 1340 of this title, the license of a multicounty agent bondsman is  
7 transferable upon the death or legal or physical incapacitation of  
8 the bondsman to the spouse of the bondsman or to such other  
9 transferee as the multicounty agent bondsman may designate in  
10 writing, and the transferee may elect to act as a multicounty agent  
11 bondsman for a period of one hundred eighty (180) days if the  
12 following conditions are met:

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

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

17 At the end of the one-hundred-eighty-day period, the transferee  
18 shall be allowed to apply for a license as a multicounty agent  
19 bondsman, provided he or she has been continually licensed as a  
20 surety bondsman for at least five (5) years immediately prior to the  
21 date of application, notwithstanding the requirements of paragraph 1  
22 of subsection A of this section.

23 D. A multicounty agent bondsman may appoint by power of  
24 attorney a licensed surety bondsman as his or her agent to execute

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

6 SECTION 2. AMENDATORY 59 O.S. 2011, Section 1327, as  
7 amended by Section 23, Chapter 407, O.S.L. 2013 (59 O.S. Supp. 2015,  
8 Section 1327), is amended to read as follows:

9 Section 1327. A. At any time before there has been a breach of  
10 the undertaking in any type of bail provided herein, the surety or  
11 bondsman or a licensed bail enforcer pursuant to a client contract  
12 authorized by the Bail Enforcement and Licensing Act may surrender  
13 the defendant, or the defendant may surrender himself or herself, to  
14 the official to whose custody the defendant was committed at the  
15 time bail was taken, or to the official into whose custody the  
16 defendant would have been given had he or she been committed. The  
17 defendant may be surrendered without the return of premium for the  
18 bond if he or she has been guilty of nonpayment of premium, changes  
19 address without notifying his or her bondsman, conceals himself or  
20 herself, leaves the jurisdiction of the court without the permission  
21 of his or her bondsman, or violates his or her contract with the  
22 bondsman in any way that does harm to the bondsman, or the surety,  
23 or violates his or her obligation to the court. When a bondsman or  
24 surety, or a licensed bail enforcer, surrenders a defendant pursuant

1 to this subsection, the bondsman or surety shall file written  
2 notification of the surrender. After surrender, and upon filing of  
3 written notification of the surrender, the bond shall be exonerated  
4 and the clerk shall enter a minute in the case exonerating the bond.

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

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

21 1. On a Recommitment of Defendant by Bondsman form approved by  
22 the Administrative Office of the Courts, the bondsman or surety  
23 shall personally affix his or her signature to an affidavit  
24 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, or deferred prosecution is granted as provided by law, in such event the undertaking and bondsman and insurer shall be exonerated from further liability.

1 SECTION 3. This act shall become effective November 1, 2016.

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