

1 ENGROSSED HOUSE
2 BILL NO. 2922

By: Kirby of the House

and

Sparks of the Senate

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5
6 An Act relating to bail bonds; amending 59 O.S. 2011, Sections 1301,
7 as amended by Section 1, Chapter 53, O.S.L. 2014, 1302, 1306, as
8 last amended by Section 1, Chapter 110, O.S.L. 2015, Section 3,
9 Chapter 53, O.S.L. 2014, as amended by Section 2, Chapter 110,
10 O.S.L. 2015, and as renumbered by Section 13, Chapter 110, O.S.L.
11 2015, 1310, as last amended by Section 4, Chapter 110, O.S.L. 2015,
12 1311.3, as last amended by Section 5, Chapter 110, O.S.L. 2015,
13 Section 13, Chapter 373, O.S.L. 2014, 1314, as last amended by
14 Section 6, Chapter 110, O.S.L. 2015, 1316, as last amended by
15 Section 8, Chapter 110, O.S.L. 2015, 1317, as last amended by
16 Section 9, Chapter 110, O.S.L. 2015 and 1328, as amended by Section
17 24, Chapter 407, O.S.L. 2013 (59 O.S. Supp. 2015, Sections 1301,
18 1306, 1306.1, 1310, 1311.3, 1311.4, 1314, 1316, 1317 and 1328),
19 which relate to the licensing and regulation of bail bondsmen;
20 updating statutory citations; modifying certain definitions;
21 clarifying certain investigation requirement; adding requirement for
22 professional bail bondsman license; clarifying circumstances that
23 allow for a license to be denied, suspended or revoked; modifying
24 exception to certain prohibited act; modifying requirements that
allow a bondsman to receive assistance from another bondsman;
modifying references to specified bondsmen; providing time
limitation for the retention of certain records; directing bondsmen
to provide certain documentation for appearance bonds; deleting
certain requirement for issuing receipts; clarifying procedures
relating to appointment forms; requiring bondsmen to possess bail
bondsman license when apprehending or surrendering defendants; and
providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 2011, Section 1301, as
amended by Section 1, Chapter 53, O.S.L. 2014 (59 O.S. Supp. 2015,
Section 1301), is amended to read as follows:

1 Section 1301. A. Sections 1301 through ~~1340~~ 1341 of this title
2 shall only apply to the regulation of bail bonds for crimes, the
3 punishment of which may be in excess of Twenty Dollars (\$20.00) fine
4 or twenty (20) days in jail, or both such fine and imprisonment.

5 B. As used in Sections 1301 through ~~1340~~ 1341 of this title:

6 1. "Commissioner" means the Insurance Commissioner of the State
7 of Oklahoma;

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

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

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

16 5. "Surety bondsman" means any person who has been approved by
17 the Commissioner and appointed by an insurer ~~or a professional~~
18 ~~bondsman,~~ by power of attorney~~7~~ to execute or countersign bail bonds
19 for the insurer ~~or a professional bondsman,~~ in connection with
20 judicial proceedings and charges and receives money for his or her
21 services;

22 6. "Managing general agent" (M.G.A.) means any person acting in
23 the capacity of supervisor or manager over a licensed bondsman, who
24 has been granted the authority or responsibility by ~~a surety company~~

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

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~~ 1306.1 of this title.

17 SECTION 2. AMENDATORY 59 O.S. 2011, Section 1302, is
18 amended to read as follows:

19 Section 1302. A. The Insurance Commissioner shall have full
20 power and authority to administer the provisions of this act, which
21 regulates bail bondsmen and to that end to adopt, and promulgate
22 rules and regulations to enforce the purposes and provisions of this
23 act. The Commissioner may employ and discharge such employees,
24 examiners, counsel, and such other assistants as shall be deemed

1 necessary, and he shall prescribe their duties and their
2 compensation shall be the same as other state employees receive for
3 similar services.

4 B. Any written instrument purporting to be a copy of any
5 action, proceeding, or finding of fact by the Commissioner, or any
6 record of the seal of his office shall be accepted by all the courts
7 of this state as prima facie evidence of the contents thereof.

8 C. ~~Open and ongoing investigative~~ Investigative files shall not
9 be open for review unless so ordered by a proper administrative
10 order of the hearing examiner or Commissioner or by proper judicial
11 order or legislative committee.

12 SECTION 3. AMENDATORY 59 O.S. 2011, Section 1306, as
13 last amended by Section 1, Chapter 110, O.S.L. 2015 (59 O.S. Supp.
14 2015, Section 1306), is amended to read as follows:

15 Section 1306. A. 1. An applicant for a cash bondsman license
16 shall meet all requirements set forth in Section 1305 of this title
17 with exception of the one-year residence requirement. An applicant
18 for a cash bondsman license shall affirmatively show that the
19 applicant has been a bona fide resident of the state for six (6)
20 months.

21 2. In addition to the requirements prescribed in Section 1305
22 of this title, an applicant for a professional bondsman license
23 shall have been continually licensed as a surety, cash or property
24 bondsman in the State of Oklahoma for a minimum of two (2) years

1 immediately prior to the date of application and shall submit to the
2 Insurance Commissioner an audited financial statement prepared by an
3 accounting firm or individual holding a permit to practice public
4 accounting in this state in accordance with the Statements on
5 Auditing Standards promulgated by the Auditing Standards Board of
6 the American Institute of Certified Public Accountants setting forth
7 the total assets of the bondsman less liabilities and debts as
8 follows: For all applications made prior to November 1, 2006, and
9 the subsequent renewals of a license issued upon the application
10 when continuously maintained in effect as required by law, the
11 statement shall show a net worth of at least Fifty Thousand Dollars
12 (\$50,000.00). For all applications made on and after November 1,
13 2006, and the subsequent renewals of a license issued upon the
14 application when continuously maintained in effect as required by
15 law, or for the renewal or reinstatement of any license that is
16 expired pursuant to subsection D of Section 1309 of this title,
17 suspended or revoked, the statement shall show a net worth of at
18 least One Hundred Fifty Thousand Dollars (\$150,000.00), the
19 statements to be current as of a date not earlier than ninety (90)
20 days prior to submission of the application and the statement shall
21 be attested to by an unqualified opinion of the accountant.

22 3. Professional bondsman applicants shall make a deposit with
23 the Insurance Commissioner in the same manner as required of
24 domestic insurance companies of an amount to be determined by the

1 Commissioner. For all applications made prior to November 1, 2006,
2 and the subsequent renewals of a license issued upon the application
3 when continuously maintained in effect as required by law, the
4 deposit shall not be less than Twenty Thousand Dollars (\$20,000.00).
5 For all applications made on and after November 1, 2006, and the
6 subsequent renewals of a license issued upon the application when
7 continuously maintained in effect as required by law, or for the
8 renewal or reinstatement of any license that is expired pursuant to
9 subsection D of Section 1309 of this title, suspended or revoked,
10 the deposit shall not be less than Fifty Thousand Dollars
11 (\$50,000.00). The deposits shall be subject to all laws, rules and
12 regulations as deposits by domestic insurance companies but in no
13 instance shall a professional bondsman write bonds which equal more
14 than ten times the amount of the deposit which the bondsman has
15 submitted to the Commissioner. Such deposit shall require the
16 review and approval of the Insurance Commissioner prior to exceeding
17 the maximum amount of Federal Deposit Insurance Corporation basic
18 deposit coverage for any one bank or financial institution. In
19 addition, a professional bondsman may make the deposit by purchasing
20 an annuity through a licensed domestic insurance company in the
21 State of Oklahoma. The annuity shall be in the name of the bondsman
22 as owner with legal assignment to the Insurance Commissioner. The
23 assignment form shall be approved by the Commissioner. If a
24 bondsman exceeds the above limitation, the bondsman shall be

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

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

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

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

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

1 professional bondsman has been revoked. The deposit shall be held
2 in the name of the Insurance Commissioner and the bondsman. The
3 bondsman shall execute an assignment or pledge of the deposit to the
4 Insurance Commissioner for the payment of unpaid bond forfeitures.

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

9 D. Notwithstanding any other provision of Sections 1301 through
10 ~~1340~~ 1341 of this title, the license of a professional bondsman is
11 transferable upon the death or legal or physical incapacitation of
12 the bondsman to the spouse of the bondsman, or to such other
13 transferee as the professional bondsman may designate in writing,
14 and the transferee may elect to act as a professional bondsman for a
15 period of one hundred eighty (180) days if the following conditions
16 are met:

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

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

21 SECTION 4. AMENDATORY Section 3, Chapter 53, O.S.L.
22 2014, as amended by Section 2, Chapter 110, O.S.L. 2015, and as
23 renumbered by Section 13, Chapter 110, O.S.L. 2015 (59 O.S. Supp.
24 2015, Section 1306.1), is amended to read as follows:

1 Section 1306.1 A. 1. An applicant for a multicounty agent
2 bondsman license shall have been continually licensed as a
3 professional bondsman in the State of Oklahoma for a minimum of two
4 (2) years immediately prior to the date of application.

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

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

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

1 notification, or the license of the bondsman shall be suspended
2 immediately after the ten-day period, pending a hearing on the
3 matter.

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

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

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

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

1 multicounty agent bondsman has been revoked. The deposit shall be
2 held in the name of the Insurance Commissioner and the bondsman.
3 The bondsman shall execute an assignment or pledge of the deposit to
4 the Insurance Commissioner for the payment of unpaid bond
5 forfeitures.

6 C. Notwithstanding any other provision of Sections 1301 through
7 ~~1340~~ 1341 of this title, the license of a multicounty agent bondsman
8 is transferable upon the death or legal or physical incapacitation
9 of the bondsman to the spouse of the bondsman or to such other
10 transferee as the multicounty agent bondsman may designate in
11 writing, and the transferee may elect to act as a multicounty agent
12 bondsman for a period of one hundred eighty (180) days if the
13 following conditions are met:

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

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

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

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

8 SECTION 5. AMENDATORY 59 O.S. 2011, Section 1310, as
9 last amended by Section 4, Chapter 110, O.S.L. 2015 (59 O.S. Supp.
10 2015, Section 1310), is amended to read as follows:

11 Section 1310. A. The Insurance Commissioner may deny, censure,
12 suspend, revoke, or refuse to renew any license issued under
13 Sections 1301 through ~~1340~~ 1341 of this title for any of the
14 following causes:

15 1. For any cause for which issuance of the license could have
16 been refused;

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

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

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

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

4 6. Fraudulent or dishonest practices or demonstrating financial
5 irresponsibility in conducting business under the license;

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

8 8. Recommending any particular attorney-at-law to handle a case
9 in which the bail bondsman has caused a bond to be issued under the
10 terms of Sections 1301 through ~~1340~~ 1341 of this title;

11 9. When, in the judgment of the Commissioner, the licensee has,
12 in the conduct of affairs under the license, demonstrated
13 incompetency, or untrustworthiness, or conduct or practices
14 rendering the licensee unfit to carry on the bail bond business or
15 making continuance in the business detrimental to the public
16 interest;

17 10. When the licensee is no longer in good faith carrying on
18 the bail bond business;

19 11. When the licensee is guilty of rebating, or offering to
20 rebate, or dividing with someone other than a licensed bail
21 bondsman, or offering to divide commissions in the case of limited
22 surety agents, or premiums in the case of professional bondsmen, and
23 for this conduct is found by the Commissioner to be a source of
24 detriment, injury, or loss to the public;

1 12. For any materially untrue statement in the license
2 application;

3 13. Misrepresentation of the terms of any actual or proposed
4 bond;

5 14. For forging the name of another to a bond or application
6 for bond;

7 15. Cheating on an examination for licensure;

8 16. Soliciting business in or about any place where prisoners
9 are confined, arraigned, or in custody;

10 17. For paying a fee or rebate, or giving or promising anything
11 of value to a jailer, trustee, police officer, law enforcement
12 officer, or other officer of the law, or any other person who has
13 power to arrest or hold in custody, or to any public official or
14 public employee in order to secure a settlement, compromise,
15 remission, or reduction of the amount of any bail bond or
16 estreatment thereof, or to secure delay or other advantage. This
17 shall not apply to a jailer, police officer, or officer of the law
18 who is not on duty and who assists in the apprehension of a
19 defendant;

20 18. For paying a fee or rebating or giving anything of value to
21 an attorney in bail bond matters, except in defense of an action on
22 a bond;

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1 19. For paying a fee or rebating or giving or promising
2 anything of value to the principal or anyone in the behalf of the
3 principal;

4 20. Participating in the capacity of an attorney at a trial or
5 hearing for one on whose bond the licensee is surety;

6 21. Accepting anything of value from a principal, other than
7 the premium; provided, the bondsman shall be permitted to accept
8 collateral security or other indemnity from the principal which
9 shall be returned immediately upon final termination of liability on
10 the bond and upon satisfaction of all terms, conditions, and
11 obligations contained within the indemnity agreement; provided,
12 however, a bondsman shall not refuse to return collateral or other
13 indemnity because of nonpayment of premium. Collateral security or
14 other indemnity required by the bondsman shall be reasonable in
15 relation to the amount of the bond;

16 22. Willful failure to return collateral security to the
17 principal when the principal is entitled thereto;

18 23. For failing to notify the Commissioner of a change of legal
19 name, residence address, business address, mailing address, e-mail
20 address, or telephone number within five (5) days after a change is
21 made, or failing to respond to a properly mailed notification within
22 a reasonable amount of time;

23 24. For failing to file a report as required by Section 1314 of
24 this title;

1 25. For filing a materially untrue monthly report;

2 26. For filing false affidavits regarding cancellation of the
3 appointment of an insurer;

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

6 28. For failing to pay any fees to a district court clerk as
7 are required by this title or failing to pay any fees to a municipal
8 court clerk as are required by this title or by Section 28-127 of
9 Title 11 of the Oklahoma Statutes;

10 29. For uttering an insufficient or uncollected check or
11 electronic funds transfer to the Insurance Commissioner for any
12 fees, fines or other payments received by the Commissioner from the
13 bail bondsman;

14 30. For failing to pay travel expenses for the return of the
15 defendant to custody once having guaranteed the travel expenses;

16 31. The Commissioner may also refuse to renew a licensed
17 bondsman for failing to file all outstanding monthly bail reports,
18 pay any outstanding fines, pay any outstanding monthly report
19 reviewal fees owed to the Commissioner, or respond to a current
20 order issued by the Commissioner;

21 32. For failing to accept or claim a certified mailing from the
22 Insurance Department, or from any district or municipal court clerk
23 addressed to the ~~bondsman's~~ mailing address of the bondsman on file
24 with the Insurance Department; and

1 33. For posting a bond for any defendant without first
2 obtaining a written or oral agreement with the defendant or cosigner
3 of the bond.

4 B. In addition to any applicable denial, censure, suspension,
5 or revocation of a license, any person violating any provision of
6 Sections 1301 through ~~1340~~ 1341 of this title may be subject to a
7 civil penalty of not less than Two Hundred Fifty Dollars (\$250.00)
8 nor more than Two Thousand Five Hundred Dollars (\$2,500.00) for each
9 occurrence. This fine may be enforced in the same manner in which
10 civil judgments may be enforced. Any order for civil penalties
11 entered by the Commissioner or authorized decision-maker for the
12 Insurance Department which has become final may be filed with the
13 court clerk of Oklahoma County and shall then be enforced by the
14 judges of Oklahoma County.

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

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

21 E. For one (1) year after notification by the Commissioner of
22 an alleged violation, or for two (2) years after the last day the
23 person was licensed, whichever is the lesser period of time, the
24 Commissioner shall retain jurisdiction as to any person who cancels

1 his bail bondsman's license or allows the license to lapse, or
2 otherwise ceases to be licensed, if the person while licensed as a
3 bondsman allegedly violated any provision of this title. Notice and
4 opportunity for hearing shall be conducted in the same manner as if
5 the person still maintained a bondsman's license. If the
6 Commissioner or a hearing examiner determines that a violation of
7 the provisions of Sections 1301 through ~~1340~~ 1341 of this title
8 occurred, any order issued pursuant to the determination shall
9 become a permanent record in the file of the person and may be used
10 if the person should request licensure or reinstatement.

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

16 SECTION 6. AMENDATORY 59 O.S. 2011, Section 1311.3, as
17 last amended by Section 5, Chapter 110, O.S.L. 2015 (59 O.S. Supp.
18 2015, Section 1311.3), is amended to read as follows:

19 Section 1311.3 A. It shall be unlawful for any person whose
20 license to act as a bail bondsman has been suspended, revoked,
21 surrendered, or refused, to do or perform any of the acts of a bail
22 bondsman. Any person convicted of violating the provisions of this
23 subsection shall be guilty of a felony and shall be punished by a
24 fine in an amount not exceeding Five Thousand Dollars (\$5,000.00).

1 B. It shall be unlawful for any bail bondsman to assist, aid,
2 or conspire with a person whose license as a bail bondsman has been
3 suspended, revoked, surrendered, or refused, to engage in any acts
4 as a bail bondsman. Any person convicted of violating the
5 provisions of this subsection shall be guilty of a felony and shall
6 be punished by a fine in an amount not to exceed Five Thousand
7 Dollars (\$5,000.00).

8 C. The provisions of this section shall not apply to a ~~person~~
9 ~~whose~~ suspended or formerly licensed bail bondsman ~~license is~~
10 ~~suspended or revoked in this state and who~~ continues to submit
11 monthly reports to the Insurance Department pursuant to subsection B
12 of Section 1314 of this title or who contracts with a licensed bail
13 enforcer pursuant to the Bail Enforcement and Licensing Act to cause
14 the apprehension and surrender of his or her defendant clients to
15 the appropriate authority. The defendant client must have a current
16 undertaking or bail contract with the ~~person whose~~ suspended or
17 formerly licensed bail bondsman ~~license is suspended or revoked and~~
18 such undertaking or bail contract must have been made in this state
19 by the ~~person whose license is now suspended or revoked~~ suspended or
20 formerly licensed bail bondsman. No acts other than ~~contracting~~
21 ~~with a licensed bail enforcer to surrender a defendant client to the~~
22 ~~appropriate authority~~ those listed in this subsection shall be
23 authorized or recognized after a bail bondsman ~~license~~ is suspended
24 or ~~revoked~~ no longer licensed in this state.

1 SECTION 7. AMENDATORY Section 13, Chapter 373, O.S.L.
2 2014 (59 O.S. Supp. 2015, Section 1311.4), is amended to read as
3 follows:

4 Section 1311.4 Notwithstanding any provision of the Bail
5 Enforcement and Licensing Act to the contrary, a licensed ~~bondsman~~
6 bondsman in this state, for purposes of apprehension and surrender
7 of his or her defendant client whose undertaking or bail contract
8 was written by the licensed bondsman, may seek assistance from, or
9 provide assistance to, another licensed bondsman in this state or
10 another state ~~for purposes of apprehension and surrender of their~~
11 ~~defendant client whose undertaking or bail contract was written by~~
12 ~~the licensed bondsman or a bondsman appointed by an insurer doing~~
13 ~~business in this state; provided, the licensed bondsmen have~~
14 assisting bondsman:

15 1. Has held a continuously valid ~~licensed~~ bail bondsman license
16 in this state for five (5) or more years ~~beginning the effective~~
17 ~~date of this act~~ immediately prior to providing such assistance; or

18 2. Is duly appointed by the same insurer as the licensed
19 bondsman seeking assistance.

20 The bondsman licensed in this state who is seeking assistance shall
21 be required to obtain and maintain proof of the ~~other bondsman's~~
22 valid license of the assisting bondsman and license duration
23 requirement prior to permitting such ~~person~~ assisting bondsman to
24 engage in any act requiring a license in this state.

1 SECTION 8. AMENDATORY 59 O.S. 2011, Section 1314, as
2 last amended by Section 6, Chapter 110, O.S.L. 2015 (59 O.S. Supp.
3 2015, Section 1314), is amended to read as follows:

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

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

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

14 2. The ~~surety company or professional bondsman or multicounty~~
15 ~~agent bondsman~~ insurer whose agent is the licensed bondsman.

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

1 ~~professional bondsman~~ insurer, upon lawful demand pursuant to the
2 terms of 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 bondsman or multicounty agent bondsman.

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~~ liability of the bondsman on the bond is
3 discharged by the court or the date collateral is returned by the
4 bondsman to its lawful owner, whichever is later. If an appearance
5 bond is never executed and filed with the court, then all records
6 shall be maintained for three (3) years immediately following the
7 date the documents were prepared. The Commissioner may require a
8 financial examination or market conduct survey during any
9 investigation of a licensee.

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

15 SECTION 9. AMENDATORY 59 O.S. 2011, Section 1316, as
16 last amended by Section 8, Chapter 110, O.S.L. 2015 (59 O.S. Supp.
17 2015, Section 1316), is amended to read as follows:

18 Section 1316. A. 1. A bail bondsman shall neither sign nor
19 countersign in blank any bond, nor shall the bondsman give a power
20 of attorney to, or otherwise authorize, anyone to countersign the
21 name of the bail bondsman to bonds unless the person so authorized
22 is a licensed surety bondsman or managing general agent appointed by
23 a licensed professional bondsman or multicounty agent bondsman
24 giving the power of attorney. The professional bondsman or

1 multicounty agent bondsman shall notify the Commissioner whenever
2 any appointment is canceled. If the bondsman surrenders the
3 professional or multicounty agent bondsman qualification, or the
4 professional or multicounty agent bondsman qualification is
5 suspended or revoked, or if ~~an insurer~~ a surety company authorized
6 to write bail bond business surrenders their bail surety line of
7 authority, or this line of authority is suspended or revoked, then
8 the Commissioner shall suspend the appointment of all of the bail
9 agents of the professional bondsman, multicounty agent bondsman or
10 ~~insurer~~ surety company. The Commissioner shall immediately notify
11 any bail agent whose license is affected and the court clerk of the
12 agent's resident county upon the suspension or revocation of the
13 qualification of the professional bondsman or multicounty agent
14 bondsman or surety company. If the professional or multicounty
15 agent bondsman qualification or the bail surety line of authority is
16 reinstated within twenty-four (24) hours, the Commissioner shall not
17 be required to suspend the bail agent appointments. If the
18 Commissioner reinstates the professional or multicounty agent
19 bondsman qualification or the bail surety line of authority within
20 twenty-four (24) hours, the Commissioner shall also reinstate the
21 appointment of the bail agents of the professional bondsman,
22 multicounty agent bondsman or ~~bail insurer~~ surety company. If more
23 than twenty-four (24) hours elapse following the suspension or
24 revocation, then the professional bondsman, multicounty agent

1 bondsman or ~~insurer~~ surety company shall submit new agent
2 appointments to the Commissioner.

3 2. Bail bondsmen shall not allow other licensed bondsmen to
4 present bonds that have previously been signed and completed. The
5 bail bondsman that presents the bond shall sign the form in the
6 presence of the official that receives the bond.

7 B. Premium charged shall be indicated on the appearance bond
8 prior to the filing of the bond.

9 C. 1. At the time ~~of~~ he or she receives payment for the
10 issuance of an appearance bond, a bail bondsman shall provide the
11 payor or indemnitors with a proper receipt and copies of any
12 agreements executed relating to the appearance bond.

13 2. Any receipt provided by a bondsman shall be individually
14 numbered and include:

15 a. the precise amount of the fees, premium, collateral,
16 or other payments received by the bondsman,

17 ~~b. copies of any agreements executed relating to the~~
18 ~~appearance bond,~~

19 ~~e.~~ the full name of the defendant,

20 ~~d.~~ c. the defendant's case number if it is available, and

21 ~~e.~~ d. full name of the individual(s) presenting the payment.

22 D. All surety bondsmen or managing general agents shall attach
23 a completed power of attorney to the appearance bond that is filed
24 with the court clerk on each bond written.

1 E. Any bond written in this state shall contain the name and
2 last-known mailing address of the bondsman and, if applicable, of
3 the insurer.

4 SECTION 10. AMENDATORY 59 O.S. 2011, Section 1317, as
5 last amended by Section 9, Chapter 110, O.S.L. 2015 (59 O.S. Supp.
6 2015, Section 1317), is amended to read as follows:

7 Section 1317. A. Every ~~surety, professional bondsman or~~
8 ~~multicounty agent bondsman~~ insurer who appoints a surety bondsman or
9 managing general agent in the state shall give notice thereof to the
10 Insurance Commissioner. The filing fee for appointment of each
11 surety bondsman or managing general agent shall be Ten Dollars
12 (\$10.00), payable to the Commissioner and shall be submitted with
13 the appointment. The appointment shall remain in effect until the
14 ~~surety, professional bondsman or multicounty agent bondsman~~ insurer
15 submits a notice of cancellation to the Commissioner, the license of
16 the bail bondsman expires, or the Commissioner cancels the
17 appointment. The Commissioner may cancel a bail surety appointment
18 if the license of the bondsman is suspended, revoked or nonrenewed.
19 ~~If the surety changes the liability limitations of the surety~~
20 ~~bondsman or the managing general agent, or any other provisions of~~
21 ~~the appointment~~ there is a change in any information submitted by
22 the insurer on the appointment form, the ~~surety~~ insurer shall submit
23 an amended appointment form and a filing fee of Ten Dollars (\$10.00)
24 payable to the Commissioner.

1 B. ~~A surety~~ An insurer terminating the appointment of a surety
2 bondsman or managing general agent immediately shall file written
3 notice thereof with the Commissioner, together with a statement that
4 it has given or mailed notice to the surety bondsman or managing
5 general agent. The notice filed with the Commissioner shall state
6 the reasons, if any, for the termination.

7 C. Prior to issuance of a new ~~surety~~ appointment for a surety
8 bondsman or managing general agent, the bondsman or agent shall file
9 an affidavit with the Commissioner stating that no forfeitures are
10 owed to any court, no fines or fees are owed to the Insurance
11 Department, and no premiums or indemnification for forfeitures or
12 fines are owed to any insurer, insureds, or others received in the
13 conduct of business under the license. If any statement made on the
14 affidavit is found by the Commissioner to be false, the Commissioner
15 may deny the new ~~surety~~ appointment, apply the sanctions set forth
16 in Section 1310 of this title or both. This provision shall not
17 require that all outstanding liabilities have been exonerated, but
18 may provide that the liabilities are still being monitored by the
19 bondsman or agent.

20 D. Every bail bondsman who negotiates and posts a bond shall,
21 in any controversy between the defendant, indemnitor, or guarantor
22 and the bail bondsman or ~~surety~~ insurer, be regarded as representing
23 the ~~surety~~ insurer. This provision shall not affect the apparent
24 authority of a bail bondsman as an agent for the insurer.

1 SECTION 11. AMENDATORY 59 O.S. 2011, Section 1328, as
2 amended by Section 24, Chapter 407, O.S.L. 2013 (59 O.S. Supp. 2015,
3 Section 1328), is amended to read as follows:

4 Section 1328. A. The bondsman or ~~surety~~ insurer, or a licensed
5 bail enforcer pursuant to a client contract authorized by the Bail
6 Enforcement and Licensing Act, desiring to make a surrender of the
7 defendant shall procure or have in his or her possession a certified
8 copy of the undertakings and deliver such documents together with
9 the defendant to the official in whose custody the defendant was at
10 the time bail was taken, or to the official into whose custody he or
11 she would have been given had he or she been committed, who shall
12 detain the defendant in custody thereon, as upon a commitment, and
13 by a certificate in writing acknowledge the surrender.

14 Upon the presentation of a certified copy of the undertaking and
15 the certificate of the official, the court before which the
16 defendant has been held to answer, or the court in which the
17 preliminary examination, indictment, information or appeal is
18 pending, shall upon notice of three (3) days given by the person
19 making the surrender to the prosecuting officer of the court having
20 jurisdiction of the offense, together with a copy of the
21 undertakings and certificate, order that the obligors be exonerated
22 from liability on their undertakings; and, if money has been
23 deposited as bail, that such money or bonds be refunded. If
24 property pledged, a certificate of exoneration be issued and the

1 | lien previously filed be released and the undertakings of whatever
2 | nature be canceled.

3 | If certified copies of bonds are not reasonably available, the
4 | bondsman or ~~surety~~ insurer may recommit the defendant to be held in
5 | custody on the charges for which the bondsman or ~~surety~~ insurer has
6 | previously posted appearance bonds thereon in accordance with the
7 | following procedure:

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

12 | a. the bondsman or ~~surety~~ insurer has posted a bond or
13 | bonds for the defendant and is hereby presented to the
14 | official in whose custody the defendant was at the
15 | time bail was taken,

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

17 | c. the specific charges and bond amount or amounts;

18 | 2. The bondsman or ~~surety~~ insurer shall present the
19 | Recommitment of Defendant by Bondsman form to the official in whose
20 | custody the defendant is being surrendered, and the official shall
21 | detain the defendant in his or her custody thereon, as upon a
22 | commitment, and by a certificate in writing acknowledging the
23 | surrender; and

24 |

