STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

SENATE BILL 373 By: Sparks

AS INTRODUCED

An Act relating to bail bondsman; amending 59 O.S. 2011, Section 1306, as amended by Section 2, Chapter 150, O.S.L. 2013 (59 O.S. Supp. 2014, Section 1306), which relates to professional bondsman; requiring certain audited financial statements; amending Section 3, Chapter 53, O.S.L. 2014 (59 O.S. Supp. 2014, Section 1306A), which relates to multicounty agent bondsman; updating provisions for multicounty agent bondsman; authorizing transferee to apply for certain license upon certain condition; amending 59 O.S. 2011, Section 1309, as last amended by Section 1, Chapter 385, O.S.L. 2014 (59 O.S. Supp. 2014, Section 1309), which relates to renewal of license; requiring certain financial statement; amending 59 O.S. 2011, Section 1310, as amended by Section 4, Chapter 150, O.S.L. 2013 (59 O.S. Supp. 2014, Section 1310), which relates to suspension of license; prohibiting retention of certain collateral for nonpayment of premium; clarifying language; prohibiting posting bond without certain agreement; amending 59 O.S. 2011, Section 1311.3, as amended by Section 1, Chapter 373, O.S.L. 2014 (59 O.S. Supp. 2014, Section 1311.3), which relates to unlawful acts; modifying language; amending 59 O.S. 2011, Section 1314, as amended by Section 5, Chapter 53, O.S.L. 2014 (59 O.S. Supp. 2014, Section 1314), which relates to written receipt for collateral; including multicounty agent bondsman; amending 59 O.S. 2011, Section 1315, as last amended by Section 5, Chapter 150, O.S.L. 2013 (59 O.S. Supp. 2014, Section 1315), which relates to persons prohibited for bondsman licensure; clarifying language; amending 59 O.S. 2011, Section 1316, as last amended by Section 2, Chapter 385, O.S.L. 2014 (59 O.S. Supp. 2014, Section 1316), which relates to submission of agreements for

approval; deleting requirement for certain agreement prior to appointment; including multicounty agent bondsman; amending 59 O.S. 2011, Section 1317, as last amended by Section 3, Chapter 385, O.S.L. 2014 (59 O.S. Supp. 2014, Section 1317), which relates to filing fee; including multicounty agent bondsman; amending 59 O.S. 2011, Section 1320, as last amended by Section 4, Chapter 385, O.S.L. 2014 (59 O.S. Supp. 2014, Section 1320), which relates to registration of license; making gender neutral; requiring certain appointment by power of attorney be filed; setting fee to register; amending 59 O.S. 2011, Section 1321, which relates to qualifications of sureties; including multicounty agent bondsman; authorizing certain electronic submission of forms and payments; providing for codification; providing an effective date; and declaring an emergency.

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

SECTION 1. AMENDATORY 59 O.S. 2011, Section 1306, as amended by Section 2, Chapter 150, O.S.L. 2013 (59 O.S. Supp. 2014, Section 1306), is amended to read as follows:

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

2. In addition to the requirements prescribed in Section 1305 of this title, an applicant for a professional bondsman license shall submit to the Insurance Commissioner <u>an audited</u> financial

~~statements~~ statement prepared by an accounting firm or individual holding a permit to practice public accounting in this state in accordance with ~~generally accepted principles of accounting procedures~~ the Statements on Auditing Standards (SAS) setting forth the total assets of the bondsman less liabilities and debts as follows: For all applications made prior to November 1, 2006, and the subsequent renewals of a license issued upon the application when continuously maintained in effect as required by law, the statement shall show a net worth of at least Fifty Thousand Dollars ($50,000.00). For all applications made on and after November 1, 2006, and the subsequent renewals of a license issued upon the application when continuously maintained in effect as required by law, or for the renewal or reinstatement of any license that is expired pursuant to subsection D of Section 1309 of this title, suspended or revoked, the statement shall show a net worth of at least One Hundred Fifty Thousand Dollars ($150,000.00), the statements to be current as of a date not earlier than ninety (90) days prior to submission of the application and the statement shall be attested to by an unqualified opinion of the accountant.

3. Professional bondsman applicants shall make a deposit with the Insurance Commissioner in the same manner as required of domestic insurance companies of an amount to be determined by the Commissioner. For all applications made prior to November 1, 2006, and the subsequent renewals of a license issued upon the application

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

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

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

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

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

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

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

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

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

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

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

SECTION 2. AMENDATORY Section 3, Chapter 53, O.S.L. 2014 (59 O.S. Supp. 2014, Section 1306A), is amended to read as follows:

Section 1306A. A. 1. An applicant for a multicounty agent bondsman license shall have been continually licensed as a professional bondsman in the State of Oklahoma for a minimum of two (2) years immediately prior to the date of application.

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

3. Multicounty agent bondsman applicants shall make a deposit with the Insurance Commissioner in the same manner as required of domestic insurance companies. The deposit shall not be less than One Hundred Thousand Dollars ($100,000.00). Provided however, any and all deposits made pursuant to paragraph 3 of subsection A of Section 1306 of ~~Title 59 of the Oklahoma Statutes~~ this title shall count toward the fulfillment of any deposit amount required by this section. The deposit shall be subject to all laws, rules, and regulations as deposits by domestic insurance companies but in no

instance, except as provided herein, shall a multicounty agent bondsman write bonds which equal more than twelve times the amount of the deposit which the bondsman has submitted to the Commissioner; provided however, any currently licensed professional bondsman in good standing with the Department and who, on the effective date of this act, meets the provisions of the grandfather clause set forth in Section 1306 of ~~Title 59 of the Oklahoma Statutes~~ this title and who otherwise meets the requirements of this section shall be afforded the same liability ratio as that of such grandfathered professional bondsman. Such deposit shall require the review and approval of the Insurance Commissioner prior to exceeding the maximum amount of Federal Deposit Insurance Corporation basic deposit coverage for any one bank or financial institution. In addition, a multicounty agent bondsman may make the deposit by purchasing an annuity through a licensed domestic insurance company in the State of Oklahoma. The annuity shall be in the name of the bondsman as owner with legal assignment to the Insurance Commissioner. The assignment form shall be approved by the Commissioner. If a bondsman exceeds the above limitation, the bondsman shall be notified by the Commissioner that the excess shall be reduced or the deposit increased within ten (10) days of notification, or the license of the bondsman shall be suspended immediately after the ten-day period, pending a hearing on the matter.

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

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

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

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

the Insurance Commissioner for the payment of unpaid bond forfeitures.

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

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

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

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

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

other than the county he or she registers his or her license, pursuant to subsection A of Section 1320 of ~~Title 59 of the Oklahoma Statutes~~ this title, shall not be limited by subsection B of Section 1320 of ~~Title 59 of the Oklahoma Statutes~~ this title.

SECTION 3. AMENDATORY 59 O.S. 2011, Section 1309, as last amended by Section 1, Chapter 385, O.S.L. 2014 (59 O.S. Supp. 2014, Section 1309), is amended to read as follows:

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

B. An individual holding a professional bondsman license or multicounty agent bondsman license shall also provide an annual audited financial statement prepared by an accounting firm or individual holding a permit to practice public accounting in this

state in accordance with ~~generally accepted principles of accounting procedures~~ the Statements on Auditing Standards (SAS) showing assets, liabilities, and net worth, the annual statement to be as of a date not earlier than June 30. The statements shall be attested to by an unqualified opinion of the accounting firm or individual holding a permit to practice public accounting in this state that prepared the statement or statements. The statement shall be submitted annually by the last day of September.

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

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

E. Reinstatement fees shall be double the original fee.

SECTION 4. AMENDATORY 59 O.S. 2011, Section 1310, as amended by Section 4, Chapter 150, O.S.L. 2013 (59 O.S. Supp. 2014, Section 1310), is amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15. Cheating on an examination for licensure;

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

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

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

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

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

21. Accepting anything of value from a principal, other than the premium; provided, the bondsman shall be permitted to accept collateral security or other indemnity from the principal which shall be returned immediately upon final termination of liability on

the bond and upon satisfaction of all terms, conditions, and obligations contained within the indemnity agreement; provided, however, a bondsman shall not refuse to return collateral or other indemnity because of nonpayment of premium. Collateral security or other indemnity required by the bondsman shall be reasonable in relation to the amount of the bond;

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

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

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

25. For filing a materially untrue monthly report;

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

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

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

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

30. For failing to pay travel expenses for the return of the defendant to custody once having guaranteed the travel expenses ~~pursuant to the provisions of subparagraph d of paragraph 3 of subsection C of Section 1332 of this title~~;

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

32. For failing to accept or claim a certified mailing from the Insurance Department, addressed to the bondsman's mailing address on file with the Insurance Department; and

33. For posting a bond for any defendant without first obtaining a written or oral agreement with the defendant or co-signer of the bond.

B. In addition to any applicable denial, censure, suspension, or revocation of a license, any person violating any provision of Sections 1301 through 1340 of this title may be subject to a civil penalty of not less than Two Hundred Fifty Dollars ($250.00) nor more than Two Thousand Five Hundred Dollars ($2,500.00) for each occurrence. This fine may be enforced in the same manner in which

civil judgments may be enforced. Any order for civil penalties entered by the Commissioner or authorized decision maker for the Insurance Department which has become final may be filed with the court clerk of Oklahoma County and shall then be enforced by the judges of Oklahoma County.

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

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

E. For one (1) year after notification by the Commissioner of an alleged violation, or for two (2) years after the last day the person was licensed, whichever is the lesser period of time, the Commissioner shall retain jurisdiction as to any person who cancels his bail bondsman's license or allows the license to lapse, or otherwise ceases to be licensed, if the person while licensed as a bondsman allegedly violated any provision of this title. Notice and opportunity for hearing shall be conducted in the same manner as if the person still maintained a bondsman's license. If the Commissioner or a hearing examiner determines that a violation of the provisions of Sections 1301 through 1340 of this title occurred, any order issued pursuant to the determination shall become a

permanent record in the file of the person and may be used if the person should request licensure or reinstatement.

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

SECTION 5. AMENDATORY 59 O.S. 2011, Section 1311.3, as amended by Section 1, Chapter 373, O.S.L. 2014 (59 O.S. Supp. 2014, Section 1311.3), is amended to read as follows:

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

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

C. The provisions of this section shall not apply to a person ~~who within ninety (90) days of the date their~~ whose bail bondsman license is suspended or revoked in this state who contracts with a licensed bail enforcer pursuant to the Bail Enforcement and Licensing Act to cause the apprehension and surrender of his or her defendant clients to the appropriate authority. The defendant client must have a current undertaking or bail contract with the person whose bail bondsman license is suspended or revoked and such undertaking or bail contract must have been made in this state by the person whose license is now suspended or revoked. No acts other than contracting with a licensed bail enforcer to surrender a defendant client to the appropriate authority shall be authorized or recognized after a bail bondsman license is suspended or revoked.

SECTION 6. AMENDATORY 59 O.S. 2011, Section 1314, as amended by Section 5, Chapter 53, O.S.L. 2014 (59 O.S. Supp. 2014, Section 1314), is amended to read as follows:

Section 1314. A. When a bail bondsman or managing general agent accepts collateral, the bail bondsman or managing general agent shall give a written receipt for same, and this receipt shall give in detail a full description of the collateral received. A description of the collateral shall be listed on the undertaking by affidavit. All property taken as collateral, whether personal, intangible or real, shall be receipted for and deemed, for all purposes, to be in the name of, and for the use and benefit of, the

surety company or licensed professional bondsman or multicounty agent bondsman, as the case may be. Every receipt, encumbrance, mortgage or other evidence of the custody, possession or claim shall facially indicate that it has been taken or made on behalf of the surety company or professional bondsman or multicounty agent bondsman through its authorized agent, the individual licensed bondsman or managing general agent who has transacted the undertaking with the bond principal. Any mortgage or other encumbrance against real property taken under the provisions of this section which does not indicate beneficial ownership of the claim to be in favor of the surety company or professional bondsman or multicounty agent bondsman shall be deemed to constitute a cloud on the title to real estate and shall subject the person filing, or causing same to be filed, in the real estate records of the county, to a penalty of treble damages or One Thousand Dollars ($1,000.00), whichever is greater, in an action brought by the person, organization or corporation injured thereby. For collateral taken, or liens or encumbrances taken or made pursuant to the provisions of this section, the individual bondsman or managing general agent taking possession of the property or making the lien, claim or encumbrance shall do so on behalf of the surety company or professional bondsman or multicounty agent bondsman, as the case may be, and the individual licensed bondsman shall be deemed to act in the capacity of fiduciary in relation to both:

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

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

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

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

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

2. Professional bondsmen and multicounty agent bondsmen shall submit electronic monthly reports showing total current liabilities,

all bonds written during the month by the professional bondsman or multicounty agent bondsman and by any licensed bondsman who may countersign for the professional bondsman or multicounty agent bondsman, all bonds terminated during the month, and the total liability and a list of all bondsmen currently employed by the professional ~~bondsmen~~ bondsman or multicounty agent bondsman.

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

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

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

SECTION 7. AMENDATORY 59 O.S. 2011, Section 1315, as last amended by Section 5, Chapter 150, O.S.L. 2013 (59 O.S. Supp. 2014, Section 1315), is amended to read as follows:

Section 1315. A. The following persons or classes shall not be bail bondsmen, shall not perform the acts of a bail bondsman, and shall not directly or indirectly receive any benefits from the execution of any bail bond:

1. Persons convicted of, or who have pled guilty or nolo contendere to, any felony or to a misdemeanor involving dishonesty or moral turpitude;

2. Jailers;

3. Police officers;

4. Committing judges;

5. Municipal or district court judges;

6. Prisoners;

7. Sheriffs, deputy sheriffs and any person having the power to arrest or having anything to do with the control of federal, state, county or municipal prisoners;

8. Any person who possesses a permit pursuant to the provisions of Section 163.11 of Title 37 of the Oklahoma Statutes or is an officer, director or stockholder of any corporation holding such a permit;

9. Any person who is an agent or owner of any establishment at which low-point beer as defined by Section 163.2 of Title 37 of the Oklahoma Statutes is sold for on-premises consumption;

10. Any person who holds any license provided for in Section 518 of Title 37 of the Oklahoma Statutes or is an agent or officer of any such licensee, except for an individual holding an employee license pursuant to paragraph 20 of subsection A of Section 518 of Title 37 of the Oklahoma Statutes;

11. Any person who holds any license or permit from any city, town, county, or other governmental subdivision for the operation of any private club at which alcoholic beverages are consumed or provided;

12. Any person or agent of a retail liquor package store; and

13. Any person whose bail bondsman license has been revoked by the Insurance Commissioner.

B. This section shall not apply to a sheriff, deputy sheriff, police officer, or officer of the law who is not on duty and who assists in the apprehension of a defendant.

C. The provisions of this section shall not apply to persons possessing permits or licenses pertaining to low-point beer or alcoholic beverages, as defined in Sections 163.2 and 506 of Title 37 of the Oklahoma Statutes, which were issued prior to May 23, 1984. No one shall be permitted to maintain an office for

conducting bail bonds business where low-point beer or alcoholic beverages are sold for on-premises consumption.

SECTION 8. AMENDATORY 59 O.S. 2011, Section 1316, as last amended by Section 2, Chapter 385, O.S.L. 2014 (59 O.S. Supp. 2014, Section 1316), is amended to read as follows:

Section 1316. A. 1. A bail bondsman shall neither sign nor countersign in blank any bond, nor shall the bondsman give a power of attorney to, or otherwise authorize, anyone to countersign the name of the bail bondsman to bonds unless the person so authorized is a licensed surety bondsman or managing general agent appointed by a licensed professional bondsman or multicounty agent bondsman giving the power of attorney. ~~The professional bondsman shall submit to the Insurance Commissioner the agreement between the professional bondsman and the appointed bondsman. The agreement shall be submitted to the Commissioner prior to the appointed bondsman writing bonds on behalf of the professional.~~ The professional bondsman shall notify the Commissioner whenever any appointment is canceled. If the bondsman surrenders the professional or multicounty agent bondsman qualification, or the professional or multicounty agent bondsman qualification is suspended or revoked, or if an insurer authorized to write bail bond business surrenders their bail surety line of authority, or this line of authority is suspended or revoked, then the Commissioner shall suspend the appointment of all of the bail agents of the

professional bondsman, multicounty agent bondsman or insurer. The Commissioner shall immediately notify any bail agent whose license is affected and the court clerk of the agent's resident county upon the suspension or revocation of the qualification of the professional bondsman. If the professional or multicounty agent bondsman qualification or the bail surety line of authority is reinstated within twenty-four (24) hours, the Commissioner shall not be required to suspend the bail agent appointments. If the Commissioner reinstates the professional or multicounty agent bondsman qualification within twenty-four (24) hours, the Commissioner shall also reinstate the appointment of the bail agents of the professional bondsman, multicounty agent bondsman or bail insurer. If more than twenty-four (24) hours elapse following the suspension or revocation, then the professional bondsman, multicounty agent bondsman or insurer shall submit new agent appointments to the Commissioner.

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

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

C. 1. At the time of payment, a bail bondsman shall provide the indemnitors with a proper receipt.

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

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

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

c. the full name of the defendant,

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

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

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

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

SECTION 9. AMENDATORY 59 O.S. 2011, Section 1317, as last amended by Section 3, Chapter 385, O.S.L. 2014 (59 O.S. Supp. 2014, Section 1317), is amended to read as follows:

Section 1317. A. Every surety or professional bondsman <u>or multicounty agent bondsman</u> who appoints a surety bondsman or managing general agent in the state, shall give notice thereof to the Insurance Commissioner. The filing fee for appointment of each surety bondsman or managing general agent shall be Ten Dollars ($10.00), payable to the Commissioner and shall be submitted with

the appointment. The appointment shall remain in effect until the surety or professional bondsman or multicounty agent bondsman submits a notice of cancellation to the Commissioner, the license of the bail bondsman expires, or the Commissioner cancels the appointment. The Commissioner may cancel a bail surety appointment if the license of the bondsman is suspended, revoked or nonrenewed. If the surety changes the liability limitations of the surety bondsman or the managing general agent, or any other provisions of the appointment, the surety shall submit an amended appointment form and a filing fee of Ten Dollars ($10.00) payable to the Commissioner.

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

C. Prior to issuance of a new surety appointment for a surety bondsman or managing general agent, the bondsman or agent shall file an affidavit with the Commissioner stating that no forfeitures are owed to any court, no fines or fees are owed to the insurance department, and no premiums or indemnification for forfeitures or fines are owed to any insurer, insureds, or others received in the conduct of business under the license. If any statement made on the

affidavit is found by the Commissioner to be false, the Commissioner may deny the new surety appointment, apply the sanctions set forth in Section 1310 of this title or both. This provision shall not require that all outstanding liabilities have been exonerated, but may provide that the liabilities are still being monitored by the bondsman or agent.

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

SECTION 10. AMENDATORY 59 O.S. 2011, Section 1320, as last amended by Section 4, Chapter 385, O.S.L. 2014 (59 O.S. Supp. 2014, Section 1320), is amended to read as follows:

Section 1320. A. No bail bondsman shall become a surety on an undertaking unless he or she has first registered his or her license in the office of the sheriff and with the court clerk ~~of the district court~~ in the county in which the bondsman resides or offices, but not both. In the county in which a bondsman registers his or her license, ~~he~~ the bondsman shall provide the court clerk with proof that he or she is a resident of ~~said~~ the county or that he or she offices in ~~said~~ the county. The court clerk of the county shall provide a list of bondsmen permitted to write bail in that county to the judges and law enforcement offices of that county.

Law enforcement shall provide the list to any incarcerated individual upon request. The list shall consist of professional, multicounty agent, property, cash and surety bail bondsmen. Any surety bondsman without a current surety appointment shall be removed from the list. In any county not having a licensed bondsman authorized to do business within said county, the court having jurisdiction shall allow and fix bail.

~~A surety bondsman shall also file a certified copy of his appointment by power of attorney from the insurer which he represents as agent with each of said officers. A fee of Twenty Dollars ($20.00) shall be paid to the district court clerk for each county in which the bail bondsman registers his license. The fee shall be payable biennially by the date of license renewal. The clerk of the district court and the sheriff shall not permit the registration of a bail bondsman unless such bondsman is currently licensed by the Insurance Commissioner under the provisions of Section 1301 et seq. of this title.~~

B. Notwithstanding the foregoing provisions of this section, a bondsman may write bonds on no more than ten defendants per year in each of the remaining seventy-six counties of this state in which the bondsman cannot register his license. Provided, however, a bondsman shall not be limited to writing bonds on only ten defendants per year in a county which does not have a licensed bondsman registered in ~~said~~ the county. The bondsman shall advise

the court clerk of each such county in writing of his or her intention to write bonds in the county and shall file a certified copy of his or her license with ~~and pay a fee of Ten Dollars ($10.00) to~~ each such court clerk.

C. A surety bondsman shall also file with the court clerk a certified copy of his or her appointment by power of attorney from the insurer which he or she represents as an agent.

D. A fee of Twenty Dollars ($20.00) shall be paid to the court clerk for each county in which the surety bail bondsman registers or files his or her license. The fee shall be payable biennially by the date of license renewal. The court clerk and the sheriff shall not permit the registration or filing of a bail bondsman unless such bondsman is currently licensed by the Insurance Commissioner under the provisions of Section 1301 et seq. of this title.

SECTION 11. AMENDATORY 59 O.S. 2011, Section 1321, is amended to read as follows:

Section 1321. Each and every surety for the release of a person on bail shall be qualified as:

~~(1)~~ 1. An insurer and represented by a surety bondsman or bondsmen; ~~or~~

~~(2)~~ 2. A professional bondsman properly qualified and approved by the Insurance Commissioner; ~~or~~

~~(3)~~ 3. A cash bondsman; ~~or~~

~~(4)~~ 4. A property bondsman; ~~or~~

~~(5)~~ 5. A multicounty agent bondsman properly qualified and approved by the Insurance Commissioner; or

6. A natural person who has reached the age of twenty-one (21) years, a citizen of the United States and a bona fide resident of Oklahoma for a period of six (6) months immediately last past and who holds record title to property in Oklahoma, cash or other things of value, acceptable to the proper authority approving the bail bond.

SECTION 12. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1341 of Title 59, unless there is created a duplication in numbering, reads as follows:

Notwithstanding any other provision of law that requires a particular form and associated payment to be filed with the Insurance Department in paper form, or to be mailed or hand-delivered to the Insurance Department, the Insurance Commissioner may, by appropriate order, require that all filings or payments of that specific type be filed or delivered in an electronic format.

SECTION 13. This act shall become effective July 1, 2015.

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

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