STATE OF OKLAHOMA

1st Session of the 52nd Legislature (2009)

SENATE BILL 406 By: Crain

AS INTRODUCED

An Act relating to professions and occupations; amending 59 O.S. 2001, Section 1306, as last amended by Section 1, Chapter 135, O.S.L. 2006 (59 O.S. Supp. 2008, Section 1306), which relates to professional bondsman; authorizing the Insurance Commissioner to review certain financial information; authorizing the release of a portion of certain deposit under certain circumstances; authorizing Commissioner to promulgate certain rules; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 2001, Section 1306, as last amended by Section 1, Chapter 135, O.S.L. 2006 (59 O.S. Supp. 2008, 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 residence.

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 financial statements 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 setting forth the total assets of the bondsman less liabilities and debts as follows: For all applications made prior to the effective date of this act and the subsequent renewals of a license issued upon such 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 the effective date of this act and the subsequent renewals of a license issued upon such 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), said 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 the effective date of this act and the subsequent renewals of a license issued upon such 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 the effective date of this act and the subsequent renewals of a license issued upon such 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). Such 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 such bondsman has submitted to the Commissioner. 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 by mail with return receipt requested 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 herein provided for shall constitute a reserve available to meet sums due on forfeiture of any bonds or recognizance executed by such 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 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 Section 1301 et seq. of this title, the license of a professional bondsman is transferable upon the death or legal or physical incapacitation of the bondsman to the bondsman's spouse, or to such other transferee as the professional bondsman may designate in writing, and the transferee may elect to act as a professional bondsman until the expiration of the license or for a period of one hundred eighty (180) days, whichever is greater, if the following conditions are met:

1. The transferee must 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. This act shall become effective November 1, 2009.

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