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March 3, 2022

SENATE BILL NO. 1806

By: Leewright of the Senate

and

May of the House

An Act relating to bail bonds, amending 59 O.S. 2021, Section 1320, which relates to registration of license and fee; removing residence requirement to operate; allowing for registration of license in county of operation; eliminating limit of bonds allowable each year for nonresident bondsmen in another county not registered; removing registration of license by notice to county clerk; amending 59 O.S. 2021, Section 1327, which relates to bail enforcement; prohibiting a court from modifying terms of a previously set bond unless signed by a bondsman; providing for exoneration of bond if failure for notice; and providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 2021, 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 in ~~the~~ any county in which the bondsman ~~resides or offices, but not both~~ intends to write bonds. In ~~the~~ any county in which a bondsman

1 registers his or her license, the bondsman shall ~~provide the court~~
2 ~~clerk with proof that he or she is a resident of the county or that~~
3 ~~the bondsman offices in the county, and shall~~ provide notice to the
4 court clerk in writing of any change in residence or business
5 address within five (5) business days after a change. The court
6 clerk of the county shall provide a list of bondsmen permitted to
7 write bail in that county to the judges and law enforcement offices
8 of that county. Law enforcement shall post the list conspicuously
9 near all telephones used by prisoners. The list shall be updated
10 and distributed to law enforcement by the court clerk at least
11 monthly, provided there has been a change to the list, and shall
12 consist of professional, multicounty agent, property, cash and
13 surety bail bondsmen. Any surety bondsman without a current surety
14 appointment shall be removed from the list. In any county not
15 having a licensed bondsman authorized to do business within the
16 county, the court having jurisdiction shall allow and fix bail.

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

1 ~~bonds in the county and shall file a certified copy of his license~~
2 ~~with such court clerk.~~

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

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

13 SECTION 2. AMENDATORY 59 O.S. 2021, Section 1327, is
14 amended to read as follows:

15 Section 1327. A. At any time before there has been a breach of
16 the undertaking in any type of bail provided herein, the surety or
17 bondsman or a licensed bail enforcer pursuant to a client contract
18 authorized by the Bail Enforcement and Licensing Act may surrender
19 the defendant, or the defendant may surrender himself or herself, to
20 the official to whose custody the defendant was committed at the
21 time bail was taken, or to the official into whose custody the
22 defendant would have been given had he or she been committed. The
23 defendant may be surrendered without the return of premium for the
24 bond if he or she has been guilty of nonpayment of premium, changes

1 address without notifying his or her bondsman, conceals himself or
2 herself, leaves the jurisdiction of the court without the permission
3 of his or her bondsman, or violates his or her contract with the
4 bondsman in any way that does harm to the bondsman, or the surety,
5 or violates his or her obligation to the court. When a bondsman or
6 surety, or a licensed bail enforcer, surrenders a defendant pursuant
7 to this subsection, the bondsman or surety shall file written
8 notification of the surrender. After surrender, and upon filing of
9 written notification of the surrender with the court clerk, the bond
10 shall be exonerated and the clerk shall enter a minute in the case
11 exonerating the bond.

12 B. 1. If the defendant has been placed in custody of another
13 jurisdiction, the district attorney shall direct a hold order to the
14 official, judge or law enforcement agency where the defendant is in
15 custody. All reasonable expenses accrued in returning the defendant
16 to the original court shall be borne by the bondsman who posted the
17 bond with that court; provided, however, except for instances
18 whereby the defendant is transported by a contracted transport
19 company, reasonable expenses shall mean the actual miles traveled in
20 transporting the defendant at a rate equal to the current Internal
21 Revenue Service standard mileage rate. Upon application, the bond
22 in the original court shall be exonerated when the hold order is
23 placed and upon proof of payment of expenses by the bondsman.

24

1 2. Except as provided for in paragraph 3 of this subsection,
2 the premium for a bail bond shall be considered earned by the
3 bondsman or the insurer, as applicable, when the defendant on the
4 bond is released from custody and is not incarcerated in any
5 capacity. If the bond premium has not been earned pursuant to the
6 terms of this section, the payor of the premium or the depositor of
7 any collateral, as applicable, may request the return of the premium
8 or collateral given to the bondsman for the bond. The bondsman
9 shall return any premium and collateral without delay. If a
10 bondsman returns the premium to the payor pursuant to this section,
11 he or she may charge a usual, customary, and reasonable fee for his
12 or her services provided in the transaction.

13 3. The premium for a bail bond shall be considered earned by
14 the bondsman, regardless of whether the defendant on the bond is
15 released from custody, if the bondsman and the payor of the bond
16 premium have agreed in writing that the purpose of the bond is to
17 secure the transfer of the defendant to another jurisdiction and the
18 defendant is in fact transferred to that jurisdiction.

19 C. If the defendant has been arrested on new charges and is in
20 the custody of the same jurisdiction in which the bondsman or surety
21 has posted an appearance bond or bonds for the defendant, and the
22 bond or bonds have not been exonerated, and certified copies of
23 bonds are not reasonably available, the bondsman or surety may
24 recommit the defendant to be held in custody on the charges for

1 which the bondsman or surety has previously posted appearance bonds
2 thereon, in accordance with the following procedure:

3 1. On a Recommitment of Defendant by Bondsman form approved by
4 the Administrative Office of the Courts, the bondsman or surety
5 shall personally affix his or her signature to an affidavit
6 attesting to the following:

7 a. the defendant is presently in the custody of the
8 jurisdiction in which the bondsman or surety has
9 posted a bond or bonds,

10 b. the case number, if any, assigned to each bond,

11 c. that the bond or bonds have not been exonerated, and

12 d. the specific charges and bond amount or amounts;

13 2. The bondsman or surety shall present the Recommitment of
14 Defendant by Bondsman form to the official in whose custody the
15 defendant is being held, and the official shall detain the defendant
16 in his or her custody, thereon, as upon a commitment, and by a
17 certificate in writing acknowledging the surrender; and

18 3. When a bondsman or surety recommits a defendant pursuant to
19 this subsection, the bondsman or surety shall file a written
20 notification thereof to the court, and after such notification, the
21 bond or bonds shall be exonerated, and the clerk shall enter a
22 minute in the case exonerating the bond or bonds.

23 D. 1. When a defendant does appear before the court as
24 required by law and enters a plea of guilty or nolo contendere, is

1 sentenced or a deferred sentence is granted as provided for in
2 Section 991c of Title 22 of the Oklahoma Statutes, or deferred
3 prosecution is granted as provided by law, in such event the
4 undertaking and bondsman and insurer shall be exonerated from
5 further liability.

6 2. A bond posted for a petition for revocation of a suspended
7 sentence, a petition for acceleration of a deferred sentence or any
8 violation of a probationary term shall be exonerated by operation of
9 law when:

- 10 a. the defendant has confessed, stipulated or otherwise
11 agreed to the factual basis of the violation of
12 probation,
13 b. the suspended sentence is revoked in whole or part,
14 c. the deferred sentence is accelerated in whole or part,
15 or
16 d. any additional sanction is imposed by the court.

17 E. The bond shall be exonerated by operation of law in any case
18 in which the defendant has been arrested on new charges in the same
19 jurisdiction in which the bondsman or insurer has posted the
20 appearance bond or bonds for the defendant, and the defendant has
21 been subsequently released on his or her own personal recognizance.

22 F. The bond shall be exonerated by operation of law in any case
23 in which the defendant has been arrested and there is an added
24 charge to a case that would result in a higher fine or longer term

1 of sentence if convicted, or an amendment to a charge that would
2 result in a higher fine or longer term of sentence if convicted;
3 provided, however, any premium paid by the defendant to the bondsman
4 or insurer from the original charge shall be at the same premium
5 rate and shall be credited to the defendant if the same bondsman or
6 insurer posts the appearance bond or bonds on the added or amended
7 charge.

8 G. For purposes of this section, a "usual, customary, and
9 reasonable fee" means a charge to the payor that is based on the
10 amount of time spent by the bondsman or his or her employees
11 researching, drafting, and executing the bail bond. Such fee shall
12 be detailed in a written document provided to the payor.

13 H. The court shall not issue an order modifying the terms of a
14 previously set bond unless the order has also been signed by the
15 bail bondsman, bail bondsman surety, or both acknowledging the
16 changes made to the bond prior to the defendant's release. Failure
17 to provide this notice shall exonerate the bond by operation of law.

18 SECTION 3. This act shall become effective November 1, 2022.

19 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS, COMMERCE AND TOURISM
20 March 3, 2022 - DO PASS
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