

1 **SENATE FLOOR VERSION**

2 March 26, 2015

3 ENGROSSED HOUSE
4 BILL NO. 1033

By: Kirby of the House

and

Sparks of the Senate

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7
8 An Act relating to bail bonds; amending 59 O.S. 2011,
9 Section 1306, as amended by Section 2, Chapter 150,
10 O.S.L. 2013 (59 O.S. Supp. 2014, Section 1306), which
11 relates to cash bondsman licensing; requiring
12 submission of audited financial statements in
13 accordance with certain standards; amending Section
14 3, Chapter 53, O.S.L. 2014 (59 O.S. Supp. 2014,
15 Section 1306A), which relates to application
16 requirements for multicounty agent bondsmen;
17 requiring submission of audited financial statements
18 in accordance with certain standards; authorizing
19 transferees to apply for certain license; amending 59
20 O.S. 2011, Section 1309, as last amended by Section
21 1, Chapter 385, O.S.L. 2014 (59 O.S. Supp. 2014,
22 Section 1309), which relates to renewal licenses;
23 requiring submission of audited financial statements
24 in accordance with certain standards; 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 the denial or suspension of
licenses; modifying list of circumstances that allow
for license suspensions and denials; deleting
statutory reference; 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; deleting certain time
limitation; 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
collateral requirements; clarifying certain reporting
requirements; 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

1 persons prohibited as bondsmen; clarifying scope of
2 certain prohibited act; amending 59 O.S. 2011,
3 Section 1316, as last amended by Section 2, Chapter
4 385, O.S.L. 2014 (59 O.S. Supp. 2014, Section 1316),
5 which relates to signing bonds; deleting certain
6 submission requirement; modifying notification
7 procedures to include multicounty agent bondsmen;
8 amending 59 O.S. 2011, Section 1317, as last amended
9 by Section 3, Chapter 385, O.S.L. 2014 (59 O.S. Supp.
10 2014, Section 1317), which relates to notice
11 requirements for sureties; modifying notification
12 procedures to include multicounty agent bondsmen;
13 amending 59 O.S. 2011, Section 1320, as last amended
14 by Section 4, Chapter 385, O.S.L. 2014 (59 O.S. Supp.
15 2014, Section 1320), which relates to license
16 registration requirements; deleting certain filing
17 requirement and fees; requiring the filing of certain
18 document; providing for registration fees and
19 procedures; amending 59 O.S. 2011, Section 1321,
20 which relates to the qualifications of sureties;
21 modifying surety qualifications to include
22 multicounty agent bondsmen; providing for electronic
23 filings and payments; providing for codification;
24 providing for recodification; and providing an
effective date.

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

1 applicant has been a bona fide resident of the state for six (6)
2 months.

3 2. In addition to the requirements prescribed in Section 1305
4 of this title, an applicant for a professional bondsman license
5 shall submit to the Insurance Commissioner an audited financial
6 ~~statements~~ statement prepared by an accounting firm or individual
7 holding a permit to practice public accounting in this state in
8 accordance with ~~generally accepted principles of accounting~~
9 ~~procedures~~ the Statements on Auditing Standards promulgated by the
10 Auditing Standards Board of the American Institute of Certified
11 Public Accountants setting forth the total assets of the bondsman
12 less liabilities and debts as follows: For all applications made
13 prior to November 1, 2006, and the subsequent renewals of a license
14 issued upon the application when continuously maintained in effect
15 as required by law, the statement shall show a net worth of at least
16 Fifty Thousand Dollars (\$50,000.00). For all applications made on
17 and after November 1, 2006, and the subsequent renewals of a license
18 issued upon the application when continuously maintained in effect
19 as required by law, or for the renewal or reinstatement of any
20 license that is expired pursuant to subsection D of Section 1309 of
21 this title, suspended or revoked, the statement shall show a net
22 worth of at least One Hundred Fifty Thousand Dollars (\$150,000.00),
23 the statements to be current as of a date not earlier than ninety
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1 (90) days prior to submission of the application and the statement
2 shall be attested to by an unqualified opinion of the accountant.

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

1 an annuity through a licensed domestic insurance company in the
2 State of Oklahoma. The annuity shall be in the name of the bondsman
3 as owner with legal assignment to the Insurance Commissioner. The
4 assignment form shall be approved by the Commissioner. If a
5 bondsman exceeds the above limitation, the bondsman shall be
6 notified by the Commissioner that the excess shall be reduced or the
7 deposit increased within ten (10) days of notification, or the
8 license of the bondsman shall be suspended immediately after the
9 ten-day period, pending a hearing on the matter.

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

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

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

3 B. The deposit provided in this section shall be held in
4 safekeeping by the Insurance Commissioner and shall only be used if
5 a bondsman fails to pay an order and judgment of forfeiture after
6 being properly notified or shall be used if the license of a
7 professional bondsman has been revoked. The deposit shall be held
8 in the name of the Insurance Commissioner and the bondsman. The
9 bondsman shall execute an assignment or pledge of the deposit to the
10 Insurance Commissioner for the payment of unpaid bond forfeitures.

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

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

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

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

3 SECTION 2. AMENDATORY Section 3, Chapter 53, O.S.L. 2014
4 (59 O.S. Supp. 2014, Section 1306A), is amended to read as follows:

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

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

1 3. Multicounty agent bondsman applicants shall make a deposit
2 with the Insurance Commissioner in the same manner as required of
3 domestic insurance companies. The deposit shall not be less than
4 One Hundred Thousand Dollars (\$100,000.00). Provided however, any
5 and all deposits made pursuant to paragraph 3 of subsection A of
6 Section 1306 of ~~Title 59 of the Oklahoma Statutes~~ this title shall
7 count toward the fulfillment of any deposit amount required by this
8 section. The deposit shall be subject to all laws, rules, and
9 regulations as deposits by domestic insurance companies but in no
10 instance, except as provided herein, shall a multicounty agent
11 bondsman write bonds which equal more than twelve times the amount
12 of the deposit which the bondsman has submitted to the Commissioner;
13 provided however, any currently licensed professional bondsman in
14 good standing with the Department and who, on the effective date of
15 this act, meets the provisions of the grandfather clause set forth
16 in Section 1306 of ~~Title 59 of the Oklahoma Statutes~~ this title and
17 who otherwise meets the requirements of this section shall be
18 afforded the same liability ratio as that of such grandfathered
19 professional bondsman. Such deposit shall require the review and
20 approval of the Insurance Commissioner prior to exceeding the
21 maximum amount of Federal Deposit Insurance Corporation basic
22 deposit coverage for any one bank or financial institution. In
23 addition, a multicounty agent bondsman may make the deposit by
24 purchasing an annuity through a licensed domestic insurance company

1 in the State of Oklahoma. The annuity shall be in the name of the
2 bondsman as owner with legal assignment to the Insurance
3 Commissioner. The assignment form shall be approved by the
4 Commissioner. If a bondsman exceeds the above limitation, the
5 bondsman shall be notified by the Commissioner that the excess shall
6 be reduced or the deposit increased within ten (10) days of
7 notification, or the license of the bondsman shall be suspended
8 immediately after the ten-day period, pending a hearing on the
9 matter.

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

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

22 6. No release of deposits to a multicounty agent bondsman shall
23 be made by the Commissioner except upon written application and the
24 written order of the Commissioner. The Commissioner shall have no

1 liability for any such release to a multicounty agent bondsman
2 provided the release was made in good faith.

3 B. The deposit provided in this section shall be held in
4 safekeeping by the Insurance Commissioner and shall only be used if
5 a bondsman fails to pay an order and judgment of forfeiture after
6 being properly notified or shall be used if the license of a
7 multicounty agent bondsman has been revoked. The deposit shall be
8 held in the name of the Insurance Commissioner and the bondsman.
9 The bondsman shall execute an assignment or pledge of the deposit to
10 the Insurance Commissioner for the payment of unpaid bond
11 forfeitures.

12 C. Notwithstanding any other provision of Sections 1301 through
13 1340 of ~~Title 59 of the Oklahoma Statutes~~ this title, the license of
14 a multicounty agent bondsman is transferable upon the death or legal
15 or physical incapacitation of the bondsman to the spouse of the
16 bondsman or to such other transferee as the multicounty agent
17 bondsman may designate in writing, and the transferee may elect to
18 act as a multicounty agent bondsman for a period of one hundred
19 eighty (180) days if the following conditions are met:

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

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

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

7 D. A multicounty agent bondsman may appoint by power of
8 attorney a licensed surety bondsman as his or her agent to execute
9 bail bonds within any county in the State of Oklahoma. The number
10 of bail bonds a multicounty agent bondsman may insure in counties
11 other than the county he or she registers his or her license,
12 pursuant to subsection A of Section 1320 of ~~Title 59 of the Oklahoma~~
13 ~~Statutes~~ this title, shall not be limited by subsection B of Section
14 1320 of ~~Title 59 of the Oklahoma Statutes~~ this title.

15 SECTION 3. AMENDATORY 59 O.S. 2011, Section 1309, as
16 last amended by Section 1, Chapter 385, O.S.L. 2014 (59 O.S. Supp.
17 2014, Section 1309), is amended to read as follows:

18 Section 1309. A. A renewal license shall be issued by the
19 Insurance Commissioner to a licensee who has continuously maintained
20 same in effect, without further examination, upon payment of a
21 renewal fee of Two Hundred Dollars (\$200.00) for a cash, property,
22 surety, or professional bail bondsman or One Thousand Dollars
23 (\$1,000.00) for a multicounty agent bondsman, and proof of
24 completion of sixteen (16) hours of continuing education as required

1 by Section 1308.1 of this title. The renewal fee for licenses
2 expiring September 15, 2012, shall be prorated to the birth month of
3 the bondsman. Thereafter the renewal fee shall be submitted
4 biennially by the last day of the birth month of the bondsman. Such
5 licensee shall in all other respects be required to comply with and
6 be subject to the provisions of Section 1301 et seq. of this title.

7 B. An individual holding a professional bondsman license or
8 multicounty agent bondsman license shall also provide an annual
9 audited financial statement prepared by an accounting firm or
10 individual holding a permit to practice public accounting in this
11 state in accordance with ~~generally accepted principles of accounting~~
12 ~~procedures~~ the Statements on Auditing Standards promulgated by the
13 Auditing Standards Board of the American Institute of Certified
14 Public Accountants showing assets, liabilities, and net worth, the
15 annual statement to be as of a date not earlier than June 30. The
16 statements shall be attested to by an unqualified opinion of the
17 accounting firm or individual holding a permit to practice public
18 accounting in this state that prepared the statement or statements.
19 The statement shall be submitted annually by the last day of
20 September.

21 C. An individual holding a property bondsman license shall also
22 provide an annual county assessor's written statement stating the
23 property's assessed value for each property used to post bonds and a
24 written statement from any lien holder stating the current payoff

1 amount on each lien for each property used to post bonds. The
2 written statements shall be submitted annually by the last day of
3 September.

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

11 E. Reinstatement fees shall be double the original fee.

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

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

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

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

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

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

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

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

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

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

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

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

22 11. When the licensee is guilty of rebating, or offering to
23 rebate, or dividing with someone other than a licensed bail
24 bondsman, or offering to divide commissions in the case of limited

1 surety agents, or premiums in the case of professional bondsmen, and
2 for this conduct is found by the Commissioner to be a source of
3 detriment, injury, or loss to the public;

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

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

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

10 15. Cheating on an examination for licensure;

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

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

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

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

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

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

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

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

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

5 25. For filing a materially untrue monthly report;

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

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

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

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

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

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

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

6 33. For posting a bond for any defendant without first
7 obtaining a written or oral agreement with the defendant or cosigner
8 of the bond.

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

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

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

3 E. For one (1) year after notification by the Commissioner of
4 an alleged violation, or for two (2) years after the last day the
5 person was licensed, whichever is the lesser period of time, the
6 Commissioner shall retain jurisdiction as to any person who cancels
7 his bail bondsman's license or allows the license to lapse, or
8 otherwise ceases to be licensed, if the person while licensed as a
9 bondsman allegedly violated any provision of this title. Notice and
10 opportunity for hearing shall be conducted in the same manner as if
11 the person still maintained a bondsman's license. If the
12 Commissioner or a hearing examiner determines that a violation of
13 the provisions of Sections 1301 through 1340 of this title occurred,
14 any order issued pursuant to the determination shall become a
15 permanent record in the file of the person and may be used if the
16 person should request licensure or reinstatement.

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

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

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

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

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

1 defendant client to the appropriate authority shall be authorized or
2 recognized after a bail bondsman license is suspended or revoked.

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

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

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

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

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

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

1 property than to safeguard and maintain its condition pending its
2 return to its lawful owner, or deliver to the surety company or
3 professional bondsman, upon lawful demand pursuant to the terms of
4 the bailment.

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

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

12 2. Professional bondsmen and multicounty agent bondsmen shall
13 submit electronic monthly reports showing total current liabilities,
14 all bonds written during the month by the professional bondsman or
15 multicounty agent bondsman and by any licensed bondsman who may
16 countersign for the professional bondsman or multicounty agent
17 bondsman, all bonds terminated during the month, and the total
18 liability and a list of all bondsmen currently employed by the
19 professional ~~bondsmen~~ bondsman or multicounty agent bondsman.

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

23 C. Every licensee shall keep at the place of business of the
24 licensee the usual and customary records pertaining to transactions

1 authorized by the license. All of the records shall be available
2 and open to the inspection of the Commissioner at any time during
3 business hours during the three (3) years immediately following the
4 date of the transaction. The Commissioner may require a financial
5 examination or market conduct survey during any investigation of a
6 licensee.

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

12 SECTION 7. AMENDATORY 59 O.S. 2011, Section 1315, as
13 last amended by Section 5, Chapter 150, O.S.L. 2013 (59 O.S. Supp.
14 2014, Section 1315), is amended to read as follows:

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

- 19 1. Persons convicted of, or who have pled guilty or nolo
20 contendere to, any felony or to a misdemeanor involving dishonesty
21 or moral turpitude;
- 22 2. Jailers;
- 23 3. Police officers;
- 24 4. Committing judges;

- 1 5. Municipal or district court judges;
- 2 6. Prisoners;
- 3 7. Sheriffs, deputy sheriffs and any person having the power to
4 arrest or having anything to do with the control of federal, state,
5 county or municipal prisoners;
- 6 8. Any person who possesses a permit pursuant to the provisions
7 of Section 163.11 of Title 37 of the Oklahoma Statutes or is an
8 officer, director or stockholder of any corporation holding such a
9 permit;
- 10 9. Any person who is an agent or owner of any establishment at
11 which low-point beer as defined by Section 163.2 of Title 37 of the
12 Oklahoma Statutes is sold for on-premises consumption;
- 13 10. Any person who holds any license provided for in Section
14 518 of Title 37 of the Oklahoma Statutes or is an agent or officer
15 of any such licensee, except for an individual holding an employee
16 license pursuant to paragraph 20 of subsection A of Section 518 of
17 Title 37 of the Oklahoma Statutes;
- 18 11. Any person who holds any license or permit from any city,
19 town, county, or other governmental subdivision for the operation of
20 any private club at which alcoholic beverages are consumed or
21 provided;
- 22 12. Any person or agent of a retail liquor package store; and
- 23 13. Any person whose bail bondsman license has been revoked by
24 the Insurance Commissioner.

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

4 C. The provisions of this section shall not apply to persons
5 possessing permits or licenses pertaining to low-point beer or
6 alcoholic beverages, as defined in Sections 163.2 and 506 of Title
7 37 of the Oklahoma Statutes, which were issued prior to May 23,
8 1984. No one shall be permitted to maintain an office for
9 conducting bail bonds business where low-point beer or alcoholic
10 beverages are sold for on-premises consumption.

11 SECTION 8. AMENDATORY 59 O.S. 2011, Section 1316, as
12 last amended by Section 2, Chapter 385, O.S.L. 2014 (59 O.S. Supp.
13 2014, Section 1316), is amended to read as follows:

14 Section 1316. A. 1. A bail bondsman shall neither sign nor
15 countersign in blank any bond, nor shall the bondsman give a power
16 of attorney to, or otherwise authorize, anyone to countersign the
17 name of the bail bondsman to bonds unless the person so authorized
18 is a licensed surety bondsman or managing general agent appointed by
19 a licensed professional bondsman or multicounty agent bondsman
20 giving the power of attorney. ~~The professional bondsman shall~~
21 ~~submit to the Insurance Commissioner the agreement between the~~
22 ~~professional bondsman and the appointed bondsman. The agreement~~
23 ~~shall be submitted to the Commissioner prior to the appointed~~
24 ~~bondsman writing bonds on behalf of the professional. The~~

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

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1 multicounty agent bondsman or insurer 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 payment, a bail bondsman shall provide
10 the indemnitors with a proper receipt.

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

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

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

17 c. the full name of the defendant,

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

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

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

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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 9. AMENDATORY 59 O.S. 2011, Section 1317, as
5 last amended by Section 3, Chapter 385, O.S.L. 2014 (59 O.S. Supp.
6 2014, Section 1317), is amended to read as follows:

7 Section 1317. A. Every surety ~~or~~, professional bondsman or
8 multicounty agent bondsman who appoints a surety bondsman or
9 managing general agent in the state, shall give notice thereof to
10 the 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 ~~or~~, professional bondsman or multicounty agent bondsman
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, the surety shall submit an amended appointment form
22 and a filing fee of Ten Dollars (\$10.00) payable to the
23 Commissioner.

24

1 B. A surety terminating the appointment of a surety bondsman or
2 managing general agent immediately shall file written notice thereof
3 with the Commissioner, together with a statement that it has given
4 or mailed notice to the surety bondsman or managing general agent.
5 The notice filed with the Commissioner shall state the reasons, if
6 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~~ Insurance Department, and no premiums or indemnification
12 for forfeitures or fines are owed to any insurer, insureds, or
13 others received in the conduct of business under the license. If
14 any statement made on the affidavit is found by the Commissioner to
15 be false, the Commissioner may deny the new surety appointment,
16 apply the sanctions set forth in Section 1310 of this title or both.
17 This provision shall not require that all outstanding liabilities
18 have been exonerated, but may provide that the liabilities are still
19 being monitored by the 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, be regarded as representing the
23 surety. This provision shall not affect the apparent authority of a
24 bail bondsman as an agent for the insurer.

1 SECTION 10. AMENDATORY 59 O.S. 2011, Section 1320, as
2 last amended by Section 4, Chapter 385, O.S.L. 2014 (59 O.S. Supp.
3 2014, Section 1320), is amended to read as follows:

4 Section 1320. A. No bail bondsman shall become a surety on an
5 undertaking unless he has first registered his license in the office
6 of the sheriff and with the court clerk ~~of the district court~~ in the
7 county in which the bondsman resides or offices, but not both. In
8 the county in which a bondsman registers his license, he shall
9 provide the court clerk with proof that he is a resident of said
10 county or that he offices in said county. The court clerk of the
11 county shall provide a list of bondsmen permitted to write bail in
12 that county to the judges and law enforcement offices of that
13 county. Law enforcement shall provide the list to any incarcerated
14 individual upon request. The list shall consist of professional,
15 multicounty agent, property, cash and surety bail bondsmen. Any
16 surety bondsman without a current surety appointment shall be
17 removed from the list. In any county not having a licensed bondsman
18 authorized to do business within said county, the court having
19 jurisdiction shall allow and fix bail.

20 ~~A surety bondsman shall also file a certified copy of his~~
21 ~~appointment by power of attorney from the insurer which he~~
22 ~~represents as agent with each of said officers. A fee of Twenty~~
23 ~~Dollars (\$20.00) shall be paid to the district court clerk for each~~
24 ~~county in which the bail bondsman registers his license. The fee~~

1 ~~shall be payable biennially by the date of license renewal. The~~
2 ~~clerk of the district court and the sheriff shall not permit the~~
3 ~~registration of a bail bondsman unless such bondsman is currently~~
4 ~~licensed by the Insurance Commissioner under the provisions of~~
5 ~~Section 1301 et seq. of this title.~~

6 B. Notwithstanding the foregoing provisions of this section, a
7 bondsman may write bonds on no more than ten defendants per year in
8 each of the remaining seventy-six counties of this state in which
9 the bondsman cannot register his license. Provided, however, a
10 bondsman shall not be limited to writing bonds on only ten
11 defendants per year in a county which does not have a licensed
12 bondsman registered in said county. The bondsman shall advise the
13 court clerk of each such county in writing of his intention to write
14 bonds in the county and shall file a certified copy of his license
15 with ~~and pay a fee of Ten Dollars (\$10.00) to each such court clerk.~~

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

19 D. A fee of Twenty Dollars (\$20.00) shall be paid to the court
20 clerk for each county in which the bail bondsman registers or files
21 his or her license. The fee shall be payable biennially by the date
22 of license renewal. The court clerk and the sheriff shall not
23 permit the registration or filing of a bail bondsman unless such

24

1 bondsman is currently licensed by the Insurance Commissioner under
2 the provisions of Section 1301 et seq. of this title.

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

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

7 ~~(1)~~ 1. An insurer and represented by a surety bondsman or
8 bondsmen; ~~or~~

9 ~~(2)~~ 2. A professional bondsman properly qualified and approved
10 by the Insurance Commissioner; ~~or~~

11 ~~(3)~~ 3. A cash bondsman; ~~or~~

12 ~~(4)~~ 4. A property bondsman; ~~or~~

13 ~~(5)~~ 5. A multicounty agent bondsman properly qualified and
14 approved by the Insurance Commissioner; or

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

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

24

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

7 SECTION 13. RECODIFICATION 59 O.S. 2011, Section 1306A,
8 as amended by Section 2 of this act, shall be recodified as Section
9 1306.1 of Title 59 of the Oklahoma Statutes, unless there is created
10 a duplication in numbering.

11 SECTION 14. This act shall become effective November 1, 2015.

12 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE
13 March 26, 2015 - DO PASS
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