

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 1608*
Committee Substitute Favorable 6/27/00

Short Title: Amend Bail Bondsmen and Runners Law.

(Public)

Sponsors:

Referred to:

May 18, 2000

A BILL TO BE ENTITLED

1 AN ACT TO REQUIRE SUPERVISION OF FIRST-YEAR BAIL BONDSMEN AND
2 RUNNERS; TO MAKE IT A CLASS I FELONY FOR A PERSON TO ACT AS A
3 RUNNER OR BAIL BONDSMAN WITHOUT OBTAINING AND MAINTAINING
4 THE REQUIRED LICENSE OR FOR A BONDSMAN TO KNOWINGLY AND
5 WILLFULLY FAIL TO RETURN ANY COLLATERAL SECURITY VALUED AT
6 MORE THAN ONE THOUSAND FIVE HUNDRED DOLLARS; TO REQUIRE
7 THAT COLLATERAL SECURITY IN THE FORM OF CASH OR NEGOTIABLE
8 INSTRUMENTS BE HELD IN TRUST ACCOUNTS; TO PROVIDE FOR THE
9 DISPOSITION OF OUTSTANDING BAIL BOND OBLIGATIONS UPON THE
10 DEATH OR TERMINAL ILLNESS OF A BAIL BONDSMAN; AND TO
11 INCREASE THE MINIMUM SECURITIES DEPOSIT REQUIRED OF
12 PROFESSIONAL BONDSMEN.
13

14 The General Assembly of North Carolina enacts:

15 Section 1. G. S. 58-71-1 is amended by adding a new subdivision to read:

16 "(4a) 'First-year licensee' means any person who has been licensed as a bail
17 bondsman or runner under this Article and who has held the license for
18 a period of less than 12 months.'"

19 Section 2. G. S. 58-71-1 is amended by adding a new subdivision to read:

1 "(9a) 'Supervising bail bondsman' means any person licensed by the
2 Commissioner as a professional bondsman or surety bondsman who
3 employs or contracts with any new licensee under this Article."

4 Section 3. G.S. 58-71-40(a) reads as rewritten:

5 "(a) ~~No~~ It is a Class I felony for any person shall to act in the capacity of a bail
6 bondsman or runner or perform any of the functions, duties, or powers prescribed for bail
7 bondsmen or runners under the provisions of this Article unless that person shall be qualified
8 and (except as regards an accommodation bondsman) licensed in accordance with the provisions
9 of without obtaining and maintaining a license under this Article. No license shall be
10 issued to a professional bondsman or runner except to an individual natural person."

11 Section 4. Article 71 of Chapter 58 of the General Statutes is amended by
12 adding a new section to read:

13 "**§ 58-71-41. First-year licensees; limitations.**

14 (a) Except as provided in this section, a first-year licensee shall have the same
15 authority as other persons licensed as bail bondsmen or runners under this Article. A
16 first-year licensee shall operate only under the supervision of and from the business
17 address of a licensed supervising bail bondsman, which address shall be on file with the
18 Department. A first-year licensee may only be employed by or contract with one
19 supervising bail bondsman and shall be limited to writing bail bonds within the judicial
20 district or bordering judicial districts where the supervising bail bondsman maintains a
21 place of business.

22 (b) When a first-year licensee has completed 12 uninterrupted months of
23 supervision, the supervising bail bondsman shall give notice of that fact to the
24 Commissioner in writing. If the licensee will continue to be employed by or contract
25 with the supervising bail bondsman beyond the initial 12-month period, the supervising
26 bail bondsman shall continue to supervise and be responsible for the licensee's acts.

27 (c) If the employment of or contract with a first-year licensee is terminated, the
28 supervising bail bondsman shall notify the Commissioner in writing and shall specify the
29 reason for the termination.

30 (d) Provided all other licensing requirements are met, an applicant for a bail
31 bondsman or runner's license who has previously been licensed with the Commissioner
32 for a period of at least three consecutive years and who has been inactive or unlicensed
33 for a period of not more than three consecutive years shall not be deemed a new licensee
34 for purposes of this section."

35 Section 5. G.S. 58-71-80 is amended by adding a new subsection to read:

36 "(c) In the case of a first-year licensee whose employment or contract is terminated
37 prior to the end of the 12-month supervisory period, the Commissioner may consider all
38 information provided in writing by the supervising bail bondsman in determining whether
39 sufficient cause exists to suspend, revoke, or refuse to renew the license or to warrant
40 criminal prosecution of the first-year licensee. If the Commissioner determines there is
41 not sufficient cause for adverse administrative action or criminal prosecution, the
42 termination shall not be deemed an interruption and the period of time the licensee was
43 employed by or contracted with the terminating supervising bail bondsman will be

1 credited toward the licensee's completion of the required 12 months of supervision with a
2 subsequent supervising bail bondsman."

3 Section 6. G.S. 58-71-95(5) reads as rewritten:

4 "(5) Accept anything of value from a principal or from anyone on behalf of a
5 principal except the premium, which shall not exceed fifteen percent
6 (15%) of the face amount of the bond; provided that the bondsman shall
7 be permitted to accept collateral security or other indemnity from a
8 principal or from anyone on behalf of a principal. Such collateral
9 security or other indemnity required by the bondsman must be
10 reasonable in relation to the amount of the bond and shall be returned
11 within 72 hours after final termination of liability on the bond. Any bail
12 bondsman who knowingly and willfully fails to return any collateral
13 security, the value of which exceeds one thousand five hundred dollars
14 (\$1,500), is guilty of a Class I felony. All collateral security, such as
15 personal and real property, subject to be returned must be done so under
16 the same conditions as requested and received by the bail bondsman."

17 Section 7. G.S. 58-71-100 reads as rewritten:

18 "**§ 58-71-100. Receipts for ~~collateral~~-collateral; trust accounts.**

19 When a bail bondsman accepts collateral he shall give a written receipt for ~~same~~,
20 collateral. and this The receipt shall give in detail a full description of the collateral
21 received. Collateral security shall be held and maintained in trust. When collateral
22 security is received in the form of cash or check or other negotiable instrument, the
23 licensee shall deposit the cash or instrument within two banking days after receipt, in an
24 established, separate noninterest-bearing trust account in any bank located in North
25 Carolina. The trust account funds shall not be commingled with other operating funds."

26 Section 8. Article 71 of Chapter 58 of the General Statutes is amended by
27 adding a new section to read:

28 "**§ 58-71-121. Death, incapacitation, or incompetence of a bail bondsman.**

29 In the case of death, incapacitation, or incompetence of a licensed bail bondsman, the
30 spouse or surviving spouse, next of kin, person or persons holding a power of attorney,
31 guardian, executor or administrator of the licensed bail bondsman may contract with
32 another licensed bail bondsman to perform those duties to have the licensee's outstanding
33 bail bond obligations resolved to the satisfaction of the courts. The contract must be filed
34 with the Commissioner and every clerk of superior court where it can be determined the
35 licensee has pending outstanding bail bond obligations. The licensed bail bondsman who
36 has agreed to perform these duties shall not, at the time of the execution of the contract,
37 have any administrative or criminal actions pending against him or her."

38 Section 9. G.S. 58-71-145 reads as rewritten:

39 "**§ 58-71-145. Financial responsibility of professional bondsmen.**

40 Each professional bondsman acting as surety on bail bonds in this State shall maintain
41 a deposit of securities with and satisfactory to the Commissioner of a fair market value of
42 at least one-eighth the amount of all bonds or undertakings written in this State on which
43 he is absolutely or conditionally liable as of the first day of the current month. The

1 amount of this deposit must be reconciled with the bondsman's liabilities as of the first
2 day of the month on or before the fifteenth day of said month and the value of said
3 deposit shall in no event be less than ~~five thousand dollars (\$5,000)~~. fifteen thousand dollars
4 (\$15,000)."

5 Section 10. G.S. 58-71-185 reads as rewritten:

6 "**§ 58-71-185. Penalties for violations.**

7 ~~Any person, firm, association or corporation violating~~ Except as otherwise provided in
8 this Article, any person who violates any of the provisions of this Article is guilty of a
9 Class 1 misdemeanor."

10 Section 11. This act becomes effective October 1, 2000.