

SECOND REGULAR SESSION

HOUSE BILL NO. 1997

93RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BEHNEN.

Read 1st time March 9, 2006 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

5550L.01I

AN ACT

To repeal sections 374.710, 374.715, 374.755, and 374.763, RSMo, and to enact in lieu thereof seven new sections relating to bail bond licensure, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 374.710, 374.715, 374.755, and 374.763, RSMo, are repealed and
2 seven new sections enacted in lieu thereof, to be known as sections 374.707, 374.710, 374.715,
3 374.755, 374.761, 374.763, and 374.773, to read as follows:

**374.707. The department of insurance shall notify any general bail bond agent who
2 is listed as having a forfeited bond. Such attempt by the department to notify the general
3 bail bond agent shall be made by fax or e-mail within forty-eight hours of the forfeiture
4 being listed with the department.**

374.710. 1. Except as otherwise provided in sections 374.695 to 374.775, no person or
2 other entity shall practice as a bail bond agent or general bail bond agent, as defined in section
3 374.700, in Missouri unless and until the department has issued to him or her a license, to be
4 renewed every two years as hereinafter provided, to practice as a bail bond agent or general bail
5 bond agent. **The department shall include the photograph of the bail bond agent or general
6 bail bond agent, provided under section 374.715, on the license.**

7 2. An applicant for a bail bond and general bail bond agent license shall submit with the
8 application proof that he or she has received twenty-four hours of initial basic training in areas
9 of instruction in subjects determined by the director deemed appropriate to professionals in the
10 bail bond profession. Bail bond agents and general bail bond agents who are licensed at the date

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

11 which this act becomes law shall be exempt from such twenty-four hours of initial basic training.

12 3. In addition to the twenty-four hours of initial basic training to become a bail bond
13 agent or general bail bond agent, there shall be eight hours of biennial continuing education for
14 all bail bond agents and general bail bond agents to maintain their state license. The director
15 shall determine said appropriate areas of instruction for said biennial continuing education. The
16 director shall determine which institutions, organizations, associations, and individuals shall be
17 eligible to provide the initial basic training and the biennial continuing education instruction.
18 The department may allow state institutions, organizations, associations, or individuals to
19 provide courses for the initial basic training and the biennial continuing education training. The
20 cost shall not exceed two hundred dollars for the initial basic training and one hundred fifty
21 dollars for biennial continuing education.

22 4. Upon completion of said basic training or biennial continuing education and the
23 licensee meeting the other requirements as provided under sections 374.695 to 374.789, the
24 director shall issue a two-year license for the bail bond agent or general bail bond agent for a fee
25 not to exceed one hundred fifty dollars.

26 5. **A person shall provide the name, address, and telephone number of each**
27 **employer for which he or she works or operates under as an independent contractor to the**
28 **department upon receiving a license to be a bail bond agent or general bail bond agent.**
29 **The bail bond agent or general bail bond agent shall update such employer information**
30 **with the department before he or she begins writing bond as a new employee or as an**
31 **independent contractor.**

32 6. Nothing in sections 374.695 to 374.775 shall be construed to prohibit any person from
33 posting or otherwise providing a bail bond in connection with any legal proceeding, provided
34 that such person receives no fee, remuneration or consideration therefor.

35 7. **For any new appointment of a surety bail bond agent, the surety bail bond agent**
36 **shall file an affidavit with the department of insurance and the appointing general bail**
37 **bond agent, signed by the previous general bail bond agent, stating that there are no**
38 **outstanding premiums owed and that the newly appointed surety bail bond agent shall**
39 **discharge all outstanding forfeitures and judgments on any previous bonds written. If the**
40 **newly appointed surety bail bond agent does not satisfy or discharge such forfeitures or**
41 **judgments, the former general bail bond agent shall file a notice along with supporting**
42 **documents with the newly appointed surety bail bond agent, the department of insurance,**
43 **and the appointing general bail bond agent stating under oath the facts that the newly**
44 **appointed surety bail bond agent has failed to satisfy the forfeiture or judgments on bonds**
45 **written by them. Upon receipt of such notification and supporting documents, the**
46 **appointing general bail bond agent shall immediately cancel the newly appointed surety**

47 **bail bond agent's authority. Such authority shall remain canceled until such forfeiture**
48 **and/or judgments are satisfied.**

374.715. 1. Applications for examination and licensure as a bail bond agent or general
2 bail bond agent shall be in writing and on forms prescribed and furnished by the department, and
3 shall contain such information as the department requires. Each application shall be
4 accompanied by proof satisfactory to the department that the applicant is a citizen of the United
5 States, is at least twenty-one years of age, has a high school diploma or general education
6 development certificate (GED), is of good moral character, and meets the qualifications for
7 surety on bail bonds as provided by supreme court rule. Each application shall be accompanied
8 by the examination [and], **the application fee set by the department, a photo identification, the**
9 **results of a fingerprinting performed and submitted in a manner approved by the highway**
10 **patrol in accordance with section 43.543, RSMo, and the results of a criminal history**
11 **record information check processed by the highway patrol under sections 43.500 to 43.543,**
12 **RSMo.** Individuals currently employed as bail bond agents and general bail bond agents shall
13 not be required to meet the education requirements needed for licensure pursuant to this section.

14 2. In addition, each applicant for licensure as a general bail bond agent shall furnish
15 proof satisfactory to the department that the applicant or, if the applicant is a corporation, that
16 each officer thereof has completed at least two years as a bail bond agent, and that the applicant
17 possesses liquid assets of at least ten thousand dollars, along with a duly executed assignment
18 of ten thousand dollars to the state of Missouri. The assignment shall become effective upon the
19 applicant's violating any provision of sections 374.695 to 374.789. The assignment required by
20 this section shall be in the form and executed in the manner prescribed by the department. The
21 director may require by regulation conditions by which additional assignments of assets of the
22 general bail bond agent may occur when the circumstances of the business of the general bail
23 bond agent warrants additional funds. However, such additional funds shall not exceed
24 twenty-five thousand dollars.

25 **3. Any applicant who provides false information under this section is guilty of a**
26 **class A misdemeanor.**

374.755. 1. The department may cause a complaint to be filed with the administrative
2 hearing commission as provided by chapter 621, RSMo, against any holder of any license
3 required by sections 374.695 to 374.775 or any person who has failed to renew or has
4 surrendered his or her license for any one or any combination of the following causes:

5 (1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic
6 beverage to an extent that such use impairs a person's ability to perform the work of the
7 profession licensed under sections 374.695 to 374.775;

8 (2) **Final adjudication or a plea of guilty or nolo contendere in a criminal**
9 **prosecution under any state or federal law for any dangerous felony, as defined by section**
10 **556.061, RSMo;**

11 (3) Final adjudication or a plea of guilty or nolo contendere within the past fifteen years
12 in a criminal prosecution under any state or federal law for a felony or a crime involving moral
13 turpitude whether or not a sentence is imposed, prior to issuance of license date;

14 [(3)] (4) Use of fraud, deception, misrepresentation or bribery in securing any license or
15 in obtaining permission to take any examination required pursuant to sections 374.695 to
16 374.775;

17 [(4)] (5) Obtaining or attempting to obtain any compensation as a member of the
18 profession licensed by sections 374.695 to 374.775 by means of fraud, deception or
19 misrepresentation;

20 [(5)] (6) Misappropriation of the premium, collateral, or other things of value given to
21 a bail bond agent or a general bail bond agent for the taking of bail, incompetency, misconduct,
22 gross negligence, fraud, or misrepresentation in the performance of the functions or duties of the
23 profession licensed or regulated by sections 374.695 to 374.775;

24 [(6)] (7) Violation of any provision of or any obligation imposed by the laws of this state,
25 department of insurance rules and regulations, or aiding or abetting other persons to violate such
26 laws, orders, rules or regulations, or subpoenas;

27 [(7)] (8) Transferring a license or permitting another person to use a license of the
28 licensee;

29 [(8)] (9) Disciplinary action against the holder of a license or other right to practice the
30 profession regulated by sections 374.695 to 374.789 granted by another state, territory, federal
31 agency or country upon grounds for which revocation or suspension is authorized in this state;

32 [(9)] (10) Being finally adjudged insane or incompetent by a court of competent
33 jurisdiction;

34 [(10)] (11) Assisting or enabling any person to practice or offer to practice the profession
35 licensed or regulated by sections 374.695 to 374.789 who is not currently licensed and eligible
36 to practice pursuant to sections 374.695 to 374.789;

37 [(11)] (12) Acting in the capacity of an attorney at a trial or hearing of a person for whom
38 the attorney is acting as surety;

39 [(12)] (13) Failing to provide a copy of the bail contract, [renumbered] **prenumbered**
40 written receipt for acceptance of money, or other collateral for the taking of bail to the principal,
41 if requested by any person who is a party to the bail contract, or any person providing funds or
42 collateral for bail on the principal's behalf;

43 **(14) Having filed bankruptcy within the past seven years as an owner or officer any**
44 **company or corporation that was created for the purpose of engaging in the bail bond**
45 **business.**

46 2. After the filing of such complaint, the proceedings shall be conducted in accordance
47 with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing
48 commission that one or more of the causes stated in subsection 1 of this section have been met,
49 the director may suspend or revoke the license or enter into an agreement for a monetary or other
50 penalty pursuant to section 374.280.

51 3. In lieu of filing a complaint at the administrative hearing commission, the director and
52 the bail bond agent or general bail bond agent may enter into an agreement for a monetary or
53 other penalty pursuant to section 374.280.

54 4. In addition to any other remedies available, the director may issue a cease and desist
55 order or may seek an injunction in a court of competent jurisdiction pursuant to the provisions
56 of section 374.046 whenever it appears that any person is acting as a bail bond agent or general
57 bail bond agent without a license or violating any other provisions of sections 374.695 to
58 374.789.

59 **5. Any bail bond agent or general bail bond agent who has his or her license**
60 **revoked by the director shall return such license to the department. Any agent who fails**
61 **to return his or her license when required by this section is guilty of a class A**
62 **misdemeanor.**

63 **6. To the extent that rule 33.17 of the Missouri rules of civil procedure contradicts**
64 **any provision of this section, the provisions of this section shall prevail.**

374.761. A bail bond agent shall be qualified to write bail in a municipal or circuit
2 **court if the general bail bond agent who employs the agent or directs the agent as an**
3 **independent contractor is licensed and qualified to write bail in such court and the bail**
4 **agent is also licensed under sections 374.695 to 374.789 and is in good standing with**
5 **the department of insurance.**

 374.763. 1. If any final judgment ordering forfeiture of a defendant's bond is not paid
2 within a six-month period of time, the court shall extend the judgment date or notify the
3 department of the failure to satisfy such judgment. The director shall draw upon the assets of
4 the surety, remit the sum to the court, and obtain a receipt of such sum from the court. The
5 director may take action as provided by section 374.755, regarding the license of the surety and
6 any bail bond agents writing upon the surety's liability.

7 2. The department shall furnish to the presiding judge of each circuit court of this state,
8 on at least a monthly basis, a list of all duly licensed and qualified bail bond agents and general
9 bail bond agents whose licenses are not subject to pending suspension or revocation proceedings,

10 and who are not subject to unsatisfied bond forfeiture judgments. In lieu of such list, the
11 department may provide this information to each presiding judge in an electronic format.

12 3. All duly licensed and qualified bail bond agents and general bail bond agents shall be
13 qualified, without further requirement, to write bail upon a surety's liability in all courts of this
14 state as provided in rules promulgated by the supreme court of Missouri and not by any circuit
15 court rule.

16 **4. If the bail bond agent provides proof of the incarceration in another jurisdiction**
17 **of the defendant who failed to appear, or provides proof to the court that it is physically**
18 **impossible for the defendant bail bond agent or surety to satisfy the conditions of the bond**
19 **through no fault of the bail bond agent or surety and the court agrees with the physically**
20 **impossible conditions, the bail bond agent or surety shall be released from liability and all**
21 **money and property deposited with the court shall be returned within ten days.**

374.773. Any licensed general bail bond agent or bail bond agent who is arrested
2 **for a felony shall notify the department of insurance within ten days of his or her arrest.**

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