

FIRST REGULAR SESSION

HOUSE BILL NO. 1165

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE YATES.

Read 1st time March 26, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

2696L.01I

AN ACT

To repeal sections 374.710, 374.715, 374.755, 374.787, and 374.789, RSMo, and to enact in lieu thereof nine new sections relating to bail bonds, 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, 374.787, and 374.789, RSMo, are
2 repealed and nine new sections enacted in lieu thereof, to be known as sections 374.707,
3 374.710, 374.715, 374.755, 374.761, 374.773, 374.780, 374.787, and 374.789, to read as
4 follows:

374.707. Upon notice of a forfeiture from the court, the director shall notify any
2 **general bail bond agent who is listed as having a forfeited bond. Such attempt by the**
3 **director to notify the general bail bond agent shall be made by facsimile or electronic mail**
4 **within forty-eight hours of the forfeiture being listed with the department, excluding**
5 **official holidays and weekends.**

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 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

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.

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
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 licensee 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. A licensee shall have a continuing duty to provide notice to the department**
29 **should this information change. It is unlawful for an agent to begin writing bond as an**
30 **agent under a new appointment with a different general bail bond agent or insurance**
31 **company unless such information with the department has been updated.**

32 6. **For any new appointment of a bail bond agent, the bail bond agent shall file an**
33 **affidavit with the department and the appointing general bail bond agent stating that to**
34 **their knowledge, there are no outstanding premiums owed at the time of their new**
35 **appointment. If outstanding premiums are owed and the bail bond agent does not satisfy**
36 **such premium obligations or portions thereof that said agent is liable for, the former**
37 **general bail bond agent may file notice, along with supporting documents with the**
38 **department, and provide such notice to the bail bond agent and the newly appointing**
39 **general bail bond agent, stating under oath the fact that the bail bond agent has failed to**
40 **satisfy their obligations. Upon receipt of such notification and supporting documents, the**
41 **appointing general bail bond agent may immediately cancel the newly appointed bail bond**
42 **authority of such agent. Such authority shall remain cancelled until all premiums said**
43 **agent is liable for are paid.**

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

 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] , application fee set by the department, **the results of a fingerprinting**
9 **performed and submitted in a manner approved by the highway patrol in accordance with**
10 **section 43.543, RSMo, and the results of a criminal history record information check**
11 **processed by the highway patrol under sections 43.500 to 43.543, RSMo.** Individuals
12 currently employed as bail bond agents and general bail bond agents shall not be required to meet
13 the education requirements needed for licensure pursuant to this section.

 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[,]
16 **writing surety on behalf of an insurance company** that each officer thereof, has completed at
17 least two years as a bail bond agent, and that the applicant possesses liquid assets of at least [ten]
18 **twenty** thousand dollars, along with a duly executed assignment of [ten] **twenty** thousand dollars
19 to the state of Missouri. The assignment shall become effective upon the applicant's violating
20 any provision of sections 374.695 to 374.789. The assignment required by this section shall be
21 in the form and executed in the manner prescribed by the department. The director may require
22 by regulation conditions by which additional assignments of assets of the general bail bond agent
23 may occur when the circumstances of the business of the general bail bond agent warrants
24 additional funds. However, such additional funds shall not exceed [twenty-five] **forty** thousand
25 dollars.

 374.755. 1. The [department] **director** may [cause a complaint to be filed with the
2 administrative hearing commission as provided by chapter 621, RSMo, against any holder of any
3 license required by sections 374.695 to 374.775] **suspend, revoke, refuse to issue, refuse to**
4 **renew, censure, or limit a license authorized under sections 374.695 to 374.775,** or **bar** any
5 person who has failed to renew or has surrendered his or her license for any [one or any
6 combination] of the following causes:

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

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

15 (3) **Has been found guilty of or pleaded guilty or nolo contendere to any dangerous**
16 **felony, as defined by section 556.061, RSMo, any felony crime of assault, any felony crime**
17 **that results in the serious physical injury or death of another person, any felony crime**
18 **against the administration of justice, or any felony of which deceit or fraud is an element**
19 **of the offense, under any state or federal law, whether or not a sentence is imposed;**

20 (4) Use of fraud, deception, misrepresentation or bribery in securing any license or in
21 obtaining permission to take any examination required pursuant to sections 374.695 to 374.775;

22 [(4)] (5) Obtaining or attempting to obtain any compensation as a member of the
23 profession licensed by sections 374.695 to [374.775] **374.789** by means of fraud, deception or
24 misrepresentation;

25 [(5)] (6) Misappropriation of the premium, collateral, or other things of value given to
26 a bail bond agent or a general bail bond agent for the taking of bail, [incompetency]
27 **incompetence**, misconduct, gross negligence, fraud, or misrepresentation in the performance of
28 the functions or duties of the profession licensed or regulated by sections 374.695 to 374.775;

29 [(6)] (7) Violation of any provision of or any obligation imposed by the laws of this state,
30 department [of insurance] rules and regulations, or aiding or abetting other persons to violate
31 such laws, orders, rules or regulations, or subpoenas;

32 [(7)] (8) Transferring a license or permitting another person to use a license of the
33 licensee;

34 [(8)] (9) Disciplinary action against the holder of a license or other right to practice the
35 profession regulated by sections 374.695 to 374.789 granted by another state, territory, federal
36 agency or country upon grounds for which revocation or suspension is authorized in this state;

37 [(9)] (10) Being finally adjudged insane or incompetent by a court of competent
38 jurisdiction;

39 [(10)] (11) Assisting or enabling any person to practice or offer to practice the profession
40 licensed or regulated by sections 374.695 to 374.789 who is not currently licensed and eligible
41 to practice pursuant to sections 374.695 to 374.789;

42 [(11)] **(12)** Acting in the capacity of an attorney at a trial or hearing of a person for whom
43 the attorney is acting as surety;

44 [(12)] **(13)** Failing to provide a copy of the bail contract, [renumbered] **prenumbered**
45 written receipt for acceptance of money, or other [collateral] **items of value for payment on the**
46 **bond** for the taking of bail to the principal, [if requested by] **or** any person who is a party to the
47 bail contract, or any person providing funds or collateral for bail on the principal's behalf; **or**

48 **(14) Failing to meet any of the qualifications for surety on bail bonds as provided**
49 **by supreme court rule.**

50 2. **If an action is initiated to suspend or revoke a license** after the filing of [such] a
51 complaint **under section 374.051**, the proceedings shall be conducted in accordance with the
52 provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that
53 one or more of the causes stated in subsection 1 of this section have been met, the director may
54 suspend or revoke the license or enter into an agreement for a [monetary or other penalty
55 pursuant to section 374.280] **consent order under section 374.280.**

56 3. In lieu of filing a complaint at the administrative hearing commission **for suspension**
57 **or revocation, after a hearing before the director, the director may order other authorized**
58 **discipline, or** the director and the bail bond agent or general bail bond agent may enter into an
59 agreement for a [monetary or other penalty pursuant to section 374.280] **consent order under**
60 **section 374.780.**

61 4. [In addition to any other remedies available, the director may issue a cease and desist
62 order or may seek an injunction in a court of competent jurisdiction pursuant to the provisions
63 of section 374.046 whenever it appears that any person is acting as a bail bond agent or general
64 bail bond agent without a license or violating any other provisions of sections 374.695 to
65 374.789] **Any bail bond agent or general bail bond agent who has his or her license revoked**
66 **by the director shall immediately return such license to the department.**

374.761. 1. A duly licensed bail bond agent in good standing with the department
2 **shall be qualified to write bail on behalf of a general bail bond agent in every municipal**
3 **or circuit court in this state in which the general bail bond agent who employs the agent**
4 **or directs the agent as an independent contractor is duly licensed and qualified to write**
5 **bail as provided by supreme court rule.**

6 2. **It is unlawful for a bail bond agent writing on behalf of an individual general**
7 **bail bond agent to fail to clearly disclose to the court, to the defendant and in the bond, the**
8 **actual legal name of the individual general bail bond agent on behalf of whom the agent**
9 **is acting.**

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

374.780. 1. If the director determines that a person has engaged, is engaging in, or
2 has taken a substantial step toward engaging in an act, practice or course of business
3 constituting a violation of sections 374.695 to 374.789 or a rule adopted or order issued
4 pursuant thereto, or that a person has materially aided or is materially aiding an act,
5 practice, omission, or course of business constituting a violation of sections 374.695 to
6 374.789 or a rule adopted or order issued pursuant thereto, the director may issue such
7 administrative orders as authorized under section 374.046. A violation of any of these
8 sections is a level one violation under section 374.049, except a violation of section
9 374.761(b) is a level two violation.

10 2. If the director believes that a person has engaged, is engaging in, or has taken
11 a substantial step toward engaging in an act, practice or course of business constituting a
12 violation of sections 374.695 to 374.789 or a rule adopted or order issued pursuant thereto,
13 or that a person has materially aided or is materially aiding an act, practice, omission, or
14 course of business constituting a violation of sections 374.695 to 374.789 or a rule adopted
15 or order issued pursuant thereto, the director may maintain a civil action for relief
16 authorized under section 374.048. A violation of any of these sections is a level one
17 violation under section 374.049, except a violation of section 374.761(b) is a level two
18 violation.

374.787. 1. The director may [cause a complaint to be filed with the administrative
2 hearing commission as provided by chapter 621, RSMo, against any] **suspend, revoke, refuse**
3 **to issue, refuse to renew, censure or limit** a surety recovery agent **license authorized under**
4 **sections 374.783 to 374.789**, or **bar** any person who has failed to renew or has surrendered his
5 or her license, for any [one or any combination] of the following causes:

6 (1) Violation of any provisions of, or any obligations imposed by, the laws of this state,
7 the department [of insurance] rules and regulations, or aiding or abetting other persons to violate
8 such laws, orders, rules, or regulations;

9 (2) [Final adjudication or a plea of] **Has been found guilty of or pleaded** guilty or nolo
10 contendere [in a criminal prosecution] **to any felony or any crime involving moral turpitude**
11 under state or federal law [for a felony or a crime involving moral turpitude,] whether or not a
12 sentence is imposed;

13 (3) Using fraud, deception, misrepresentation, or bribery in securing a license or in
14 obtaining permission to take any examination required by sections 374.783 to 374.789;

15 (4) Obtaining or attempting to obtain any compensation as a surety recovery agent by
16 means of fraud, deception, or misrepresentation;

17 (5) Acting as a surety recovery agent or aiding or abetting another in acting as a surety
18 recovery agent without a license;

19 (6) Incompetence, misconduct, gross negligence, fraud, or misrepresentation in the
20 performance of the functions or duties of a surety recovery agent;

21 (7) Having a license revoked or suspended that was issued by another state.

22 **2. If an action is initiated to suspend or revoke a license**, after the filing of [the] a
23 complaint **under section 374.051**, the proceedings shall be conducted in accordance with the
24 provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that
25 one or more of the causes stated in subsection 1 of this section have been met, the director may
26 suspend or revoke the license or enter into an agreement for a [monetary or other penalty
27 pursuant to section 374.280] **consent order under section 374.780**.

28 **3. In lieu of filing a complaint with the administrative hearing commission for**
29 **suspension or revocation, after hearing before the director, the director may order other**
30 **authorized discipline, or** the director and the surety recovery agent may enter into an agreement
31 for a [monetary or other penalty pursuant to section 374.280] **consent order under section**
32 **374.780 or after hearing order any other authorized discipline**.

33 [4. In addition to any other remedies available, the director may issue a cease and desist
34 order or may seek an injunction in a court of law pursuant to section 374.046 whenever it appears
35 that any person is acting as a surety recovery agent without a license.]

374.789. 1. [A person is guilty of a class D felony if he or she does not hold a valid] **It**
2 **is unlawful for any person to engage in any of the following acts unless the person is**
3 **licensed by the director as a surety recovery agent [license or] , a bail bond [license and**
4 **commits any of the following acts] agent, or a general bail bond agent:**

5 (1) Holds himself or herself out to be a licensed surety recovery agent within this state;

6 (2) Claims that he or she can render surety recovery agent services; or

7 (3) Engages in fugitive recovery in this state.

8 **2. If the director determines that a person has engaged, is engaging in, or has taken**
9 **a substantial step toward engaging in an act, practice or course of business constituting**
10 **violation of this section or a rule adopted or order issued pursuant thereto, or that a person**
11 **has materially aided or is materially aiding an act, practice, omission, or course of business**
12 **constituting a violation of this section or a rule adopted or order issued pursuant thereto,**
13 **the director may issue such administrative orders as authorized under section 374.046. A**
14 **violation of any of these sections is a level three violation under section 374.049.**

15 **3. If the director believes that a person has engaged, is engaging in, or has taken**
16 **a substantial step toward engaging in an act, practice or course of business constituting a**
17 **violation of this section or a rule adopted or order issued pursuant thereto, or that a person**
18 **has materially aided or is materially aiding an act, practice, omission, or course of business**
19 **constituting a violation of this section or a rule adopted or order issued pursuant thereto,**

20 the director may maintain a civil action for relief authorized under section 374.048. A
21 violation of any of these sections is a level three violation under section 374.049.

22 4. Any person who knowingly engages in any act, practice, omission, or course of
23 business in violation of this section is guilty of a class D felony. If the offender holds a
24 license or certificate of authority under the insurance laws of this state, the court imposing
25 sentence shall order the director to revoke such license or certificate of authority.

26 5. The director may refer such evidence as is available concerning violations of this
27 chapter to the proper prosecuting attorney, who with or without a criminal reference, or
28 the attorney general under section 27.030, RSMo, may institute the appropriate criminal
29 proceedings.

30 6. Nothing in this section shall limit the power of the state to punish any person for
31 any conduct that constitutes a crime under any other state statute.

32 7. Any person who engages in fugitive recovery in this state and wrongfully causes
33 damage to any person or property, including, but not limited to, unlawful apprehension, unlawful
34 detainment, or assault, shall be liable for such damages and may be liable for punitive damages.

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