

HCS HB 2156 -- REGULATION OF BAIL BOND AGENTS (Molendorp)

COMMITTEE OF ORIGIN: Committee on Insurance Policy

This substitute changes the laws regarding the regulation of bail bond agents. In its main provisions, the substitute:

- (1) Prohibits an employee, contractor, or volunteer of a court or law enforcement agency or any person employed at a jail from being licensed as a bail bond agent. This provision will not apply to an attorney who holds an inactive license;
- (2) Requires a person licensed as an active bail bond agent to hold the license for at least four years, instead of the current two years, prior to owning or being an officer of a licensed general bail bond agent;
- (3) Prohibits a corporation, partnership, association, or other legal entity from applying for a general bail bond license unless it is operating as a surety bail bond agent;
- (4) Increases the maximum fee which can be charged for a bail bond license or license renewal from \$150 to \$300 every two years for a biennial license. The fee for filing a quarterly financial statement cannot exceed \$50 per filing;
- (5) Increases the initial basic training requirements for licensure from 24 to 40 hours;
- (6) Repeals the provision limiting the cost of the initial training at \$200 and the biennial continuing education at \$150;
- (7) Prohibits a person who has had a final adjudication or plea of guilty or nolo contendere in a criminal prosecution under any state or federal law for a felony or crime involving moral turpitude from making application for examination or licensure. A person licensed on January 1, 2011, will be exempt from the provision;
- (8) Requires an applicant for licensure as a general bail bond agent to show proof of serving four years, instead of the current two years, as a bail bond agent;
- (9) Specifies that an applicant must have at least \$10,000 in assets in a financial institution of the Department of Insurance, Financial Institutions and Professional Registration's choosing. The department director may require an applicant to have additional assets, but this amount cannot exceed \$50,000 instead of the current \$25,000. Currently, an applicant must possess liquid assets of at least \$10,000;

(10) Requires a general bail bond agent to provide the parties with a receipt for any moneys paid and to provide in writing to all parties of the contract certain information regarding the bond;

(11) Requires the Department of Insurance, Financial Institutions and Professional Registration to provide the Department of Revenue with the name and Social Security number of each applicant for licensure or renewal within one month of the date the application is filed or at least one month prior to the renewal. The Director of the Department of Revenue must verify if the person is delinquent on any state taxes or has failed to file a state income tax return in the last three years. If there is a delinquency or failure to file, the applicant's or licensee's license will be revoked within 90 days of the notice unless the department director verifies it has been remedied;

(12) Requires a nonresident general bail bond agent to deposit with the Department of Insurance, Financial Institutions and Professional Registration \$25,000 of assets for the security of its outstanding surety bond obligations. The department director may require an agent to have additional assets under certain circumstances, but the amount cannot exceed \$50,000;

(13) Allows a complaint to be filed with the Administrative Hearing Commission against a licensee who has been convicted of a felony or crime of moral turpitude at any time instead of the current within the past 15 years. A complaint may also be filed for submitting a fraudulent, deceptive, or misleading financial statement or statement of outstanding bonds to the department or a state court;

(14) Requires a general bail bond agent to file with the initial application for licensure and annually with the quarterly financial statement of March 31 a statement with the department to be used as proof of security for bail bonds written in this state;

(15) Requires a general bail bond agent to file within 30 days of the end of each calendar quarter after his or her initial licensure, or more often if so directed by the department, a quarterly financial statement and a statement of outstanding bonds within five days of the first day of each month. Failure to file the statements will result in the immediate removal of the agent from the preapproved list of general bail bond agents kept by the department and is a cause to file a complaint against the agent with the Administrative Hearing Commission. The department director must provide a list of all preapproved general bail bond agents to the courts on at least a monthly basis. A general bail bond agent is preapproved to write

outstanding bonds totaling 15 times the agent's assets less encumbrances. If the agent's amount of outstanding bonds is equal to or greater than that amount, the agent must be removed from the list until the agent can demonstrate to the department that the outstanding bonds have been reduced below that amount or that additional assets have been secured. A general bail bond agent acting as a property bail bondsman cannot write a bond exceeding 50% of his or her secured assets less encumbrances unless specifically approved by the court;

(16) Specifies that anyone who intentionally provides fraudulent, deceptive, or misleading financial statements or statements of outstanding bonds to the department or a court will be guilty of a class D felony;

(17) Requires the court to enter a bond forfeiture in favor of the state or municipality and against the general bail bond agent and insurer and immediately issue an arrest warrant for the defendant when a defendant fails to appear at a required court appearance. The general bail bond agent must be allowed at least 90 days after the defendant's failure to appear before a forfeiture will be considered final, unless the court grants an extension;

(18) Specifies the circumstances when a forfeiture can be set aside;

(19) Requires the department to notify the courts when a general bail bond agent's authorization to write bail bonds has been suspended and when it has been reinstated and when an insurer's authorization to transact surety business in Missouri has been suspended and when it has been reinstated;

(20) Authorizes the department director to issue civil penalties and forfeitures for specified violations;

(21) Repeals the provision allowing a licensed bail bond agent to charge a \$50 minimum premium for a bond of \$1,000 or less;

(22) Increases the maximum fee that can be charged for a surety recovery agent license or license renewal from \$150 to \$300 for a two-year license and increases the initial minimum training requirements from 24 to 40 hours; and

(23) Repeals the provision allowing a surety recovery agent to apprehend a defendant without personal liability for false imprisonment or to make apprehension by providing written authority endorsed on a certified copy of the undertaking and paying the lawful fees but authorizes a bail bond agent to perform these activities.

The substitute becomes effective January 1, 2011.

FISCAL NOTE: No impact on General Revenue Fund in FY 2011, FY 2012, and FY 2013. Estimated Income on Other State Funds of \$2,648 in FY 2011, \$5,213 in FY 2012, and \$4,889 in FY 2013.