

HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 835

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

AN ACT

RELATING TO INSURANCE; REVISING REQUIREMENTS FOR BAIL BONDSMAN
LICENSE, PROHIBITED PRACTICES OF BAIL BONDSMEN AND GROUNDS FOR
DENIAL, SUSPENSION, REVOCATION AND REFUSAL TO CONTINUE BAIL
BONDSMAN LICENSE; AMENDING THE BAIL BONDSMEN LICENSING LAW;
DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 59A-51-1 NMSA 1978 (being Laws 1984,
Chapter 127, Section 928) is amended to read:

"59A-51-1. SHORT TITLE.--~~[This article]~~ Chapter 59A,
Article 51 NMSA 1978 may be cited as the "Bail Bondsmen
Licensing Law"."

Section 2. Section 59A-51-4 NMSA 1978 (being Laws 1984,
Chapter 127, Section 931, as amended by Laws 1999, Chapter 272,
Section 25 and also by Laws 1999, Chapter 289, Section 38) is

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underscoring material = new
[bracketed material] = delete

1 amended to read:

2 "59A-51-4. QUALIFICATIONS FOR LICENSE.--Applicants for
3 license as bail bondsman or solicitor pursuant to the
4 provisions of [~~Chapter 59A, Article 51 NMSA 1978 must not be~~
5 ~~law enforcement, adjudication or prosecution officials or their~~
6 ~~employees, attorneys-at-law, officials authorized to admit to~~
7 ~~bail, or state or county officers, and must]~~ the Bail Bondsmen
8 Licensing Law shall be qualified as follows:

9 A. [~~is]~~ be an individual not less than eighteen
10 years of age;

11 B. [~~is]~~ be a citizen of the United States;

12 C. not have been convicted of a felony, with the
13 exception of a conditional discharge of a felony conviction, or
14 engaged in or committed an act proscribed in Section 59A-51-13
15 or 59A-51-41 NMSA 1978;

16 D. not be or not be related to a law enforcement,
17 adjudication, jail, court or prosecution official or an
18 employee thereof or an attorney, official authorized to admit
19 to bail, or state or county officer;

20 [~~G.~~] E. if for license as bondsman, [~~must take and~~]
21 pass [~~to the superintendent's satisfaction~~] a written
22 examination testing [~~his~~] the applicant's knowledge and
23 competence to engage in the bail bondsman business;

24 [~~D. is]~~ F. be of good personal and business
25 reputation;

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underscored material = new
[bracketed material] = delete

1 ~~[E.]~~ G. if to act as a property bondsman, ~~[must]~~ be
 2 financially responsible and provide the surety bond or deposit
 3 in lieu thereof as required in accordance with Section 59A-51-8
 4 NMSA 1978;

5 ~~[F.]~~ H. if to act as a limited surety agent, ~~[must]~~
 6 be appointed by an authorized surety insurer ~~[subject to~~
 7 ~~issuance of a license, and meet all applicable qualifications~~
 8 ~~as for licensing as an agent of an insurer as stated in Section~~
 9 ~~59A-12-12 NMSA 1978]~~; and

10 ~~[G.]~~ I. if for license as a solicitor, ~~[must]~~ have
 11 been so appointed by a licensed bail bondsman subject to
 12 issuance of the solicitor license."

13 Section 3. Section 59A-51-13 NMSA 1978 (being Laws 1984,
 14 Chapter 127, Section 940, as amended) is amended to read:

15 "59A-51-13. PRACTICES.--

16 A. ~~[No]~~ A bail bondsman or solicitor shall not:

17 (1) suggest or advise the employment of or
 18 name for employment any particular attorney to represent his
 19 principal;

20 (2) pay a fee or rebate or give or promise
 21 anything of value to a jailer, policeman, peace officer,
 22 committing magistrate or any other person who has power to
 23 arrest or to hold in custody or to any public official or
 24 public employee in order to secure a settlement, compromise,
 25 remission or reduction of the amount of any bail bond or

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1 estreatment thereof or to secure delay or other advantage;

2 (3) pay a fee or rebate or give anything of
3 value to an attorney in bail bond matters, except in defense of
4 any action on a bond;

5 (4) pay a fee or rebate or give or promise
6 anything of value to the principal or anyone in his behalf;

7 (5) participate in the capacity of an attorney
8 at a trial or hearing of one on whose bond he is surety; ~~or~~

9 (6) except for the premium received for the
10 bond, fail to return any collateral security within a
11 reasonable time after the termination of liability on the bond;
12 or

13 ~~[(6)]~~ (7) charge or accept anything of value
14 ~~[from a principal]~~ except the premium ~~[which may be paid in~~
15 ~~cash or property; provided that the bondsman shall be permitted~~
16 ~~to]~~ on the bond and any extraterritorial recovery expenses, but
17 the bondsman may accept collateral security or other indemnity
18 ~~[from the principal, which shall be returned upon final~~
19 ~~termination of liability on the bond. Such] if:~~

20 (a) such collateral security or other
21 indemnity ~~[required by the bondsman must be]~~ is reasonable in
22 relation to the amount of the bond;

23 (b) no collateral or security in
24 tangible property is taken by pledge or debt instrument that
25 allows retention, sale or other disposition of such property

1 upon default of premium payment;

2 (c) no collateral or security interest
3 in real property is taken by deed or any other instrument
4 unless the bail bondsman's interest in the property is limited
5 to one hundred percent of the amount of the bond;

6 (d) the collateral or security taken by
7 the bondsman is not pledged directly to any court as security
8 for an appearance bond; and

9 (e) the person from whom the collateral
10 or security is taken is given a receipt describing the
11 condition of the collateral or security at the time it is taken
12 into the custody of the bondsman.

13 B. When a bail bondsman accepts cash as collateral,
14 [~~he~~] the bondsman shall deposit [~~such~~] the cash in [~~his~~] the
15 bondsman's trust account and give a written receipt for same,
16 and this receipt shall give in detail a full account of the
17 collateral received.

18 C. Law enforcement, adjudication and prosecution
19 officials and their employees, attorneys-at-law, officials
20 authorized to admit to bail and state and county officers shall
21 not directly or indirectly receive any benefits from the
22 execution of any bail bond.

23 D. A bail bondsman shall not sign nor countersign
24 in blank any bond, nor shall [~~he~~] the bondsman give a power of
25 attorney to or otherwise authorize anyone to countersign [~~his~~]

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1 the bondsman's name to bonds unless the person so authorized is
2 a licensed bondsman directly employed by the bondsman giving
3 such power of attorney.

4 E. No bail bond agency shall advertise as or hold
5 itself out to be a surety insurer.

6 F. Every bail bondsman shall have a permanent
7 street address and all bail bond business shall be conducted
8 from that address.

9 G. Every bail bondsman shall transact all bail bond
10 business, surety or property, in the bondsman's proper
11 individual name or one agency name as stated on the application
12 for license and on the license as issued by the
13 superintendent."

14 Section 4. Section 59A-51-14 NMSA 1978 (being Laws 1984,
15 Chapter 127, Section 941, as amended) is amended to read:

16 "59A-51-14. DENIAL, SUSPENSION, REVOCATION OR REFUSAL TO
17 CONTINUE LICENSE.--

18 A. The superintendent may deny, suspend, revoke or
19 refuse to continue any license issued under [~~Chapter 59A,~~
20 ~~Article 51 NMSA 1978]~~ the Bail Bondsmen Licensing Law for any
21 of the following [~~causes or for any violation of the laws of~~
22 ~~this state relating to bail or the bail bond business]~~ reasons:

23 (1) [~~for~~] any cause for which issuance of the
24 license could have been refused had it then existed and been
25 known to the superintendent;

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1 (2) a material misstatement, misrepresentation
2 or fraud in obtaining the license;

3 (3) any violation of the laws of this state
4 relating to bail or the bail bond business;

5 (4) conviction of any felony, regardless of
6 whether the conviction resulted from conduct related to the
7 bail bond business with the exception of a conditional
8 discharge of a felony conviction;

9 [~~(3)~~] (5) misappropriation, conversion or
10 unlawful withholding of money belonging to insurers or others
11 and received in the conduct of business under the license;

12 [~~(4)~~] (6) fraudulent or dishonest practices in
13 the conduct of business under the license;

14 [~~(5) willful~~] (7) failure to comply with, or
15 willful violation of any provision of the Bail Bondsmen
16 Licensing Law or proper order, rule or regulation of the
17 superintendent or any court of this state;

18 (8) any activity prohibited in Section
19 59A-51-13 NMSA 1978;

20 [~~(6)~~] (9) failure or refusal, upon demand, to
21 pay over to any insurer he represented, any money coming into
22 his hands belonging to the insurer;

23 [~~(7) willful failure to return collateral~~
24 ~~security to the principal when the principal is entitled~~
25 ~~thereto;]~~

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1 (10) failure to preserve without use and
2 retain separately or to return collateral taken as security on
3 any bond to the principal, indemnitor or depositor of
4 collateral when the principal, indemnitor or depositor is
5 entitled to such collateral;

6 [~~(8)~~] (11) for knowingly having in [~~his~~] the
7 bail bondsman's employ a person whose bail bond business
8 license has been revoked, suspended or denied in this or any
9 other state; or

10 [~~(9) willful~~] (12) failure, neglect or
11 refusal to supervise a solicitor's activities [~~in his~~] on the
12 bail bondsman's behalf.

13 B. When, in the judgment of the superintendent, the
14 licensee in the conduct of affairs under the license has
15 demonstrated incompetency, untrustworthiness, conduct or
16 practices rendering him unfit to engage in the bail bond
17 business, or making his continuance in such business
18 detrimental to the public interest, or that he is no longer in
19 good faith engaged in the bail bond business, or that he is
20 guilty of rebating, or offering to rebate his commissions in
21 the case of limited surety agents or premiums in the case of
22 professional bondsmen, and for such reasons is found by the
23 superintendent to be a source of detriment, injury or loss to
24 the public, he shall revoke or suspend the license.

25 C. In case of the suspension or revocation of

1 license of any bail bondsman, the license of any or all other
2 bail bondsmen who are members of the same agency and any or all
3 solicitors employed by such agency, who knowingly were parties
4 to the act that formed the ground for the suspension or
5 revocation shall likewise be suspended or revoked, except for
6 the purpose of completing pending matters, and those persons
7 who knowingly were parties to the act are prohibited from being
8 licensed as a member of or bail bondsman or solicitor for some
9 other agency.

10 D. No license under [~~Chapter 59A, Article 51 NMSA~~
11 ~~1978~~] the Bail Bondsmen Licensing Law shall be issued, renewed
12 or permitted to exist when the same is used directly or
13 indirectly to circumvent the provisions of [~~that article~~] the
14 Bail Bondsmen Licensing Law."

15 Section 5. EMERGENCY.--It is necessary for the public
16 peace, health and safety that this act take effect immediately.

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