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## FISCAL IMPACT REPORT

**SPONSOR** Smith **ORIGINAL DATE** 01/23/14  
**LAST UPDATED** 02/17/14 **HB** 50/aHCPAC/aHFI#1  
**SHORT TITLE** Bail Bondsman Qualifications & Licensure **SB** \_\_\_\_\_  
**ANALYST** Weber

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY14	FY15	FY16	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		NFI	NFI			

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Attorney General's Office (AGO)  
 Administrative Office of the Courts (AOC)  
 Office of Superintendent of Insurance (OSI)

### SUMMARY

#### Synopsis of HFL#1 Amendment

House Floor Amendment # 1 makes the following changes:

1. On page 3, line 6, strike "general equivalency diploma" and insert in lieu thereof "high school equivalency".
2. On page 17, between lines 6 and 7, insert the following new section:
3. "**SECTION 10. TEMPORARY PROVISION.**--The Supreme Court shall by rule determine the conditions under which a bail bondsman or solicitor may appear in court without the assistance of an attorney and without constituting the practice of law."
4. Renumber the succeeding section accordingly

Item 1 is consistent with a current change in nomenclature to the more generic term "high school equivalency".

Synopsis of HCPAC Amendment

The House Consumer and Public Affairs Committee amendment to House Bill 50 makes the following changes to House Bill 50:

1. On page 3, strike lines 7 through 10 in their entirety.-this eliminates the qualification of not having been convicted of a felony.
2. Reletter the succeeding subsections accordingly.
3. On page 13, strike lines 20 through 23 in their entirety.-this eliminates the superintendent’s authority to deny, suspend, revoke or refuse to continue any license for conviction of a felony.
4. Renumber the succeeding paragraphs accordingly.

Synopsis of Original Bill

AOC offers the following regarding House Bill 50

HB 50 amends, enacts, and repeals statutory sections within the Bail Bondsmen Licensing Law (“BLL”), Section 59A-51-1 NMSA 1978 et. seq., as follows:

- amends Section 59A-51-2 NMSA 1978, setting out definitions of terms used within the BLL, to include within the definition of “solicitor” a requirement that a bail bondsman register a solicitor with the Superintendent of Insurance (“superintendent”) within seven days of employment;
- amends Section 59A-51-4 NMSA 1978, governing qualifications for license, to require that a bail bondsman or solicitor applicant be a high school graduate or have passed a GED exam, and to remove the conditional discharge of a felony conviction exception;
- amends Section 59A-51-4.1 NMSA 1978, governing educational requirements to increase the amount of required on-the-job training hours and to provide that it is a violation of the New Mexico Insurance Code for a person to fail to register with the superintendent;
- amends Section 59A-51-5 NMSA 1978, governing application for license as bondsman or solicitor, to make technical changes in line with other changes to the BLL;
- amends Section 59A-51-8 NMSA 1978, governing bonding requirements for property bondsmen, to require that the bond or deposit shall be maintained until all bonds that have been posted with all courts become exonerated;
- amends Section 59A-51-13 NMSA 1978 to prohibit a bail bondsman or solicitor from offering a reduction in rates, charges, or premiums to the principal or anyone on behalf of the principal;
- amends Section 59A-51-14 NMSA 1978 to remove the conditional discharge of a felony conviction exemption from the felony conviction reason for denial, suspension, revocation, or refusal to license under the BLL by the superintendent;
- amends Section 59A-51-16 NMSA 1978 to increase the discretionary administrative penalty imposed upon a licensee found to have committed willful misconduct or willful violation from a maximum of \$500 to a maximum of \$1,000;
- enacts a new section of the BLL to require the superintendent to conduct public hearings for the purpose of promulgating the premium rates, schedule of charges, and rating plan to be charged and used by bail bondsmen, to prohibit a premium rate that has not been promulgated or approved by the superintendent from being charged for any

bail bond, and to require that premium rates promulgated by the superintendent shall not be excessive, inadequate or unfairly discriminatory; and

- repeals Section 59A-51-18 NMSA 1978, providing a maximum penalty of \$1,000 for a violation of the BBL.

### **FISCAL IMPLICATIONS**

No fiscal implications were identified.

### **SIGNIFICANT ISSUES**

OSI reports that currently bail bondsmen are required to file their rates with the Superintendent for prior approval, despite the fact that all filed rates have been the same. Allowing the Superintendent to promulgate rates will eliminate what has become a pointless filing process and will also allow the Superintendent to promulgate rules regarding the determination of what types of expenses bail bondsmen may charge in addition to the premium. The bill, with only minor modifications, represents changes to the Bail Bondsmen Licensing Law that have been recommended by the OSI Superintendent's Bail Bond Task Force.

### **TECHNICAL ISSUES**

AGO notes that if it is the intent of HB 50 to require that an applicant for a *solicitor* license pass a qualifying examination, Section 2 of HB 50 should be amended to specify that requirement.

AOC adds that although Section 4(E) refers to “the superintendent or other person in apparent charge of the office of superintendent of insurance,” other statutory sections within the BBL refer simply to the “superintendent.” It may be best to include a definition of “superintendent,” to clarify that the Superintendent is the person guiding the Office of the Superintendent of Insurance, within the BBL definitions section, 59A-51-2 NMSA 1978, for the sake of clarity.

MW/ds;jl:svb:ds