

Hall of the House of Representatives
89th General Assembly - Regular Session, 2013
Amendment Form

Subtitle of House Bill No. 1829
CONCERNING BAIL BOND FEES.

Amendment No. 1 to House Bill No. 1829

Amend House Bill No. 1829 as originally introduced:

Delete everything after the enacting clause and substitute:

"SECTION 1. Arkansas Code § 17-19-111 is amended to read as follows:
17-19-111. Fees.

(a) Notwithstanding any other provisions of this chapter to the contrary, and notwithstanding any other provisions of Arkansas law to the contrary, a professional bail bond company, county sheriff, keeper of a jail, or other person authorized to take bond under § 16-84-102 are hereby required to charge, collect, and remit the following fees ~~for direct deposit as special revenues~~ into the ~~State Insurance Department Trust Fund~~ Bail Bondsman Board Fund for the support, personnel, maintenance, and operations of the ~~State Insurance Department~~ Professional Bail Bond Company and Professional Bail Bondsman Licensing Board and for the Domestic Peace Fund administered by the Arkansas Child Abuse/Rape/Domestic Violence Commission, in addition to any other fees, taxes, premium taxes, levies, or other assessments imposed in connection with the issuance of bail bonds ~~by professional bail bond companies~~ under Arkansas law.

(b)(1) In addition to the bail or appearance bond premium or compensation allowed under § 17-19-301, each licensed professional bail bond company, county sheriff, keeper of a jail, or other person authorized to take bond under § 16-84-102 shall charge and collect as a nonrefundable fee for the ~~fund~~ Bail Bondsman Board Fund an additional ten-dollar fee per bail bond for giving bond for each and every bail and appearance bond issued by the licensed professional bail bond company, county sheriff, keeper of a jail, or other person authorized to take bond under § 16-84-102 by or through its individual licensees.

(2) The fees shall be collected quarterly and then reported and filed with the ~~Insurance Commissioner~~ board no later than fifteen (15) calendar days after the end of each quarter.

(3) The notarized quarterly reporting form and a notarized annual reconciliation form as to all fees collected for the ~~fund~~ Bail Bondsman Board Fund shall be filed by each professional bail bond company on forms prescribed by the ~~commissioner~~ board and at the times and in the manner as the ~~commissioner~~ board shall prescribe in conformity with this section.



(4) A paper-processing charge of fifteen dollars (\$15.00) shall be collected on each bail bond in order to defray the surety's costs incurred by the quarterly and annual reporting requirements contained herein and to further defray the surety's costs incurred in the collection of all fees due, owing, and collected on behalf of the ~~fund~~ Bail Bondsman Board Fund and the surety's costs incurred in the preparation of all required reports submitted in conformance with the standards established by the American Institute of Certified Public Accountants.

(c)(1) The ~~commissioner~~ board may, in ~~his or her~~ its discretion, grant an extension for the filing of the report and fees for good cause shown upon timely written request.

(2) Absent an extension for good cause shown, each licensed professional bail bond company failing to report or pay these fees shall be liable to the ~~fund~~ Bail Bondsman Board Fund for a monetary penalty of one hundred dollars (\$100) per day for each day of delinquency.

(3) The ~~commissioner~~ board may pursue any appropriate legal remedies on behalf of the ~~fund~~ Bail Bondsman Board Fund to collect any delinquent fees and penalties owed as special revenues.

(d)(1) Upon collection of the fees and any monetary penalties, the ~~commissioner~~ board shall deposit or fund as special revenues:

(A) Sufficient fees and penalties directly into the ~~State Insurance Department Trust Fund~~ Bail Bondsman Board Fund to provide for the personal services and operating expenses of the ~~Professional Bail Bond Company and Professional Bail Bondsman Licensing Board~~ under subsection (g) of this section board; and

(B) The remainder of all fees and penalties directly into the Domestic Peace Fund administered by the Arkansas Child Abuse/Rape/Domestic Violence Commission.

(2) The fees and penalties shall be in addition to all other fees, licensure or registration fees, taxes, assessments, levies, or penalties payable to any federal or state office, court, agency, board, or commission or other public official or officer of the state, or its political subdivisions, including counties, cities, or municipalities, by a professional bail bond ~~companies~~ company, county sheriff, keeper of a jail, or other person authorized to take bond under § 16-84-102.

(3)(A) Each individual bail bondsman is required to assist in collection of the fees but is exempt from the duty and responsibility of payment of the fees to the ~~fund~~ Bail Bondsman Board Fund unless he or she misappropriates or converts such moneys to his or her own use or to the use of others not entitled to the fees.

(B) In that case, the ~~commissioner~~ board shall proceed on behalf of the ~~fund~~ Bail Bondsman Board Fund with any civil or criminal remedies at ~~his or her~~ its disposal against the individual responsible.

(C) Upon criminal conviction of the individual responsible for fraudulent conversion of the moneys due the ~~fund~~ Bail Bondsman Board Fund, the individual responsible shall pay restitution to the ~~trust fund~~ Bail Bondsman Board Fund, and the court shall incorporate a finding to that effect in its order.

(D) Absent substantial evidence to the contrary, the violations of the individual may be attributed to the employing bail bond company, and any criminal or civil court may, in its discretion and upon substantial evidence, order the employing bail bond company to pay

restitution to the ~~fund~~ Bail Bondsman Board Fund on behalf of the responsible individual and shall incorporate that finding into its order.

(e) For purposes of any statutory security deposit Arkansas law requires of professional bail bond companies, including, but not limited to, the deposit under § 17-19-205, the payment of the fees required by this section is considered to be a duty of the licensee, so as to allow the ~~commissioner~~ board on behalf of the ~~fund~~ Bail Bondsman Board Fund to make a claim against any such deposit for the fees required by this section and any penalties owed thereon, up to the limit of any security deposit.

(f) Under no circumstances shall the fees or penalties thereon held in or for deposit into the ~~fund~~ Bail Bondsman Board Fund as special revenues be subject to any tax, levy, or assessment of any kind, including, but not limited to, any bond forfeiture claims, any garnishment or general creditors' claims, any remedies under Title 16 of this Code, or other provisions of Arkansas law.

~~(g)(1) At the beginning of each fiscal year, the department shall certify to the Chief Fiscal Officer of the State an amount sufficient to provide for personal services and operating expenses of the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board.~~

~~(2) The Chief Fiscal Officer of the State shall then transfer the certified amount from the State Insurance Department Trust Fund to the Bail Bondsman Board Fund.~~

SECTION 2. Arkansas Code § 17-19-301 is amended to read as follows:
17-19-301. Premiums.

(a) With the exception of other provisions of this section, the premium or compensation for giving bond or depositing money or property as bail on any bond shall be ten percent (10%), except that the amount may be rounded up to the nearest five-dollar amount.

(b) The minimum compensation for giving bond or depositing money or property as bail on any bond shall be not less than fifty dollars (\$50.00).

(c) If a bail bond or appearance bond issued by a licensee under this chapter must be replaced with another bail bond or appearance bond because of the licensee's violation of any provision of the laws of this state or any rule, ~~regulation~~, or order of the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board, the licensee who violated the provision and who caused the replacement to be required shall pay all the premium amount for the replacement bond, in an amount not to exceed the amount of the original bond, without any contribution from the respective defendant or principal.

(d)(1)(A) In addition to the ten percent (10%) bail or appearance bond premium or compensation allowed in subsection (a) of this section, and commencing on ~~April 1, 1993~~ the effective date of this act, each licensed professional bail bond company, county sheriff, keeper of a jail, or other person authorized to take bond under § 16-84-102 shall charge and collect as a nonrefundable administrative and regulatory fee for the ~~State Insurance Department Trust Fund~~ board an additional ten dollars (\$10.00) per bond fee for giving bond for every bail and appearance bond issued by the licensed professional bail bond company, county sheriff, keeper of a jail, or other person authorized to take bond under § 16-84-102 by or through its individual licensees.

(B) The administrative and regulatory fees payable by

these ~~companies~~ entities to the ~~fund~~ Bail Bondsman Board Fund for the support and operation of the ~~department~~ board, and collected by the bail bond companies as required by this section, shall be reported and filed with the ~~Insurance Commissioner~~ board no later than fifteen (15) calendar days after the end of each calendar quarter, contemporaneous with the professional bail bond company's filing of its quarterly bail bond report with the ~~department~~ board.

(C) A notarized annual reconciliation of all such fees collected in the preceding calendar year for the ~~fund~~ Bail Bondsman Board Fund shall be filed by each licensed professional bail bond company, county sheriff, keeper of a jail, or other person authorized to take bond under § 16-84-102 at a time and on forms prescribed by the ~~commissioner~~ board.

(D) The ~~commissioner~~ board may in ~~his or her~~ its discretion grant an extension for good cause shown upon timely written request.

(E) In no event shall the administrative and regulatory fees payable by the bail bond companies to the ~~fund~~ Bail Bondsman Board Fund exceed ten dollars (\$10.00) per bond, as required by this subchapter, exclusive of statutory licensure fees elsewhere in this chapter.

(2)(A) Absent an extension the ~~commissioner~~ board granted for good cause to a company and in addition to any license suspension or revocation, the ~~commissioner~~ board may in ~~his or her~~ its discretion order after notice and a hearing a professional bail bond company failing timely to report or pay the regulatory fee to the ~~fund~~ Bail Bondsman Board Fund by and through the ~~commissioner~~ board shall be liable to the ~~fund~~ Bail Bondsman Board Fund for a monetary penalty of one hundred dollars (\$100) per day for each day of delinquency.

(B) The ~~commissioner~~ board may pursue any appropriate legal remedies on behalf of the ~~fund~~ Bail Bondsman Board Fund to collect any delinquent fees and penalties owed pursuant to this section as special revenues to the ~~fund~~ Bail Bondsman Board Fund.

(3) Upon collection of the regulatory fees and any monetary penalties payable to the ~~fund~~ Bail Bondsman Board Fund and assessed under this section, the ~~commissioner~~ board shall deposit all fees and penalties directly into the ~~fund~~ Bail Bondsman Board Fund as special revenues.

(4)(A) Upon failure of the bail bond company to remit the fees timely, the ~~commissioner~~ board may pursue civil legal remedies against the noncomplying bail bond company on behalf of the ~~fund~~ Bail Bondsman Board Fund to recover the balance of the fees and any penalties owed.

(B) In its discretion, the board may also fine, or suspend or revoke the license of, any professional bail bond company failing to remit or pay timely the fees required by this section.

(5)(A) Other than sole proprietors licensed as professional bail bond companies, individual bail bondsmen are exempt from the duty and responsibility of payment of the administrative and regulatory fees to the ~~fund~~ Bail Bondsman Board Fund, except that the individual licenses of such individual employees of the professional bail bond company may be suspended or revoked by the ~~commissioner pursuant to~~ board under the administrative procedures provided in this chapter if the individual licensee fails to comply with his or her duties in proper collection of the bail bond premiums earmarked for later payment to the ~~fund pursuant to~~ Bail Bondsman Board Fund under this subsection, if he or she converts such moneys to his or her own

use, or commits other infractions in regard to collection of such premium amounts.

(B) In those instances, the violations of the individual may in the ~~commissioner's~~ board's discretion be attributed to the employing professional bail bond company for good cause shown, and its license may be sanctioned by the ~~commissioner pursuant to~~ board under the administrative procedures provided in this chapter.

(C) Further, upon criminal conviction of the individual bondsman for theft of property in connection with fraudulent conversion of those premium amounts due the ~~fund~~ Bail Bondsman Board Fund, the board shall revoke the individual's license, and in its discretion, fine or suspend or revoke the license of, the employing professional bail bond company if it assisted the individual in such fraudulent conduct.

(6)(A) For purposes of § 17-19-205 requiring the professional bail bond company's deposit of a letter of credit or certificate of deposit for the faithful performance of its duties, the company's payment of the administrative and regulatory fee as required by this subsection shall be considered to be and shall be a duty of the licensee so as to allow the ~~commissioner~~ board to make a claim against the security deposit required in § 17-19-205 on behalf of the ~~fund~~ Bail Bondsman Board Fund for the balance of any owed and unpaid administrative and regulatory fees the professional bail bond company still owes to the ~~fund~~ Bail Bondsman Board Fund, and the ~~commissioner~~ board shall promptly proceed to make claims against such security deposits on behalf of the ~~fund~~ Bail Bondsman Board Fund, up to the limit of the company's deposit for any remaining fee balance due, in the manner provided in this subchapter for any claim against the deposit required herein.

(B) Under no circumstances shall such deposits held for the ~~fund~~ Bail Bondsman Board Fund, or fees or any moneys deposited into the ~~fund~~ Bail Bondsman Board Fund, be subject to any levy or assessment of any kind, including forfeiture claims, misconduct claims, or general creditor claims of the bail bond company, subject to garnishment or other creditors' remedies under Title 16 of this Code or other provisions of Arkansas law.

(e)(1) In addition to the premiums, compensation, and fees allowed in subsections (a) and (d) of this section, each licensed professional bail bond company, county sheriff, keeper of a jail, or other person authorized to take bond under § 16-84-102 shall charge and collect twenty dollars (\$20.00) as a nonrefundable fee for the Arkansas Public Defender Commission.

(2) All fees collected ~~shall be forwarded to the commission for deposit into the Public Defender User Fee Fund~~ shall be paid to the board with appropriate fees forwarded to the commission in a timely manner for disbursement as required by law.

(3)(A) The commission shall deposit the money collected into the existing account within the State Central Services Fund entitled "Public Defender User Fees Fund".

(B)(i) Three dollars (\$3.00) of each fee collected under this section shall be remitted to each county in the state to defray the operating expenses of each county's public defender office.

(ii) The commission shall remit quarterly to each county treasurer the county's portion of the fee collected under this section using the formula for the County Aid Fund under § 19-5-602.

(4) The fees collected by the bail bond companies required under

this subsection shall be reported and filed with the ~~commission~~ board quarterly.

(5) A notarized annual reconciliation of all fees collected in the preceding calendar year shall be filed by each licensed professional bail bond company, county sheriff, keeper of a jail, or other person authorized to take bond under § 16-84-102 by February 15 on forms provided by the commission.

(6) In addition to the bail or appearance bond premium or compensation allowed under this section and § 17-19-111, each licensed professional bail bond company shall charge and collect a processing fee of five dollars (\$5.00) on each bail bond in order to defray the surety's costs incurred by the quarterly and annual reports to the ~~commission~~ board and to further defray the surety's costs incurred in the collection of all fees due owing and collected on behalf of the commission.

(7) The ~~commission~~ board may pursue any appropriate legal remedy for the collection of any delinquent fees owed under this subsection.

~~(8) Upon collection of any fees and penalties, the commission shall deposit all fees and penalties directly into the Public Defender User Fees Fund account within the State Central Services Fund.~~

SECTION 3. Arkansas Code § 19-5-1088 is amended to read as follows:
19-5-1088. Bail Bondsman Board Fund.

(a) There is hereby established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund to be known as the "Bail Bondsman Board Fund".

(b) ~~This~~ The fund shall consist of those moneys ~~transferred from the State Insurance Department Trust Fund collected under §§ 17-19-111 and 17-19-301~~ and other moneys from the collection of fees~~.~~

(c) ~~there to~~ The fund shall be used exclusively for the operation of the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board."

The Amendment was read _____

By: Representative Vines
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Chief Clerk