

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas  
2 84th General Assembly  
3 Regular Session, 2003

# A Bill

HOUSE BILL 2331

4  
5 By: Representatives Martin, Childers  
6  
7

## For An Act To Be Entitled

8  
9 AN ACT TO PLACE THE LICENSING OF PROFESSIONAL  
10 BAIL BOND COMPANIES AND BAIL BONDSMAN UNDER THE  
11 SECRETARY OF STATE; AND FOR OTHER PURPOSES.  
12

## Subtitle

13  
14 AN ACT TO PLACE THE LICENSING OF  
15 PROFESSIONAL BAIL BOND COMPANIES AND  
16 BAIL BONDSMAN UNDER THE SECRETARY OF  
17 STATE.  
18  
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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22 SECTION 1. Arkansas Code § 17-19-101(2) is repealed.

23 ~~(2) "Board" means the Professional Bail Bond Company and~~  
24 ~~Professional Bail Bondsman Licensing Board;~~  
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26 SECTION 2. Arkansas Code § 17-19-102 is amended to read as follows:

27 17-19-102. Penalties.

28 (a) Any person who is found guilty of violating any of the provisions  
29 of this chapter shall upon conviction be fined not more than one thousand  
30 dollars (\$1,000) for each offense or imprisoned for not more than one (1)  
31 year, or both.

32 (b) Any person who falsely represents to the ~~Professional Bail Bond~~  
33 ~~Company and Professional Bail Bondsman Licensing Board~~ Secretary of State  
34 that any person has met the education or continuing education requirements of  
35 §§ 17-19-107, 17-19-212, and 17-19-401 et seq., shall be guilty of a Class B  
36 misdemeanor and upon conviction shall be punished accordingly.



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SECTION 3. Arkansas Code § 17-19-103 is amended to read as follows:  
17-19-103. Civil and criminal proceedings.

The venue for any criminal or civil proceeding filed for any violation of this chapter shall be in the county wherein the violation occurred or Pulaski County.

SECTION 4.

~~17-19-106. Professional Bail Bond Company and Professional Bail Bondsman Licensing Board Title.~~

~~(a) This section chapter~~ may be cited as the "Arkansas Professional Bail Bond Company and Professional Bail Bondsman Licensing Act".

~~(b)(1) There is hereby created the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board.~~

~~(2)(A) The board shall be composed of seven (7) members to be appointed by the Governor for terms of seven (7) years.~~

~~(B) Vacancies shall be filled by appointment of the Governor for the unexpired portion of the term.~~

~~(3)(A) Three (3) members of the board shall be licensed bail bond company owners, one (1) a municipal chief of police, one (1) a county sheriff, one (1) a municipal or circuit judge, and one (1) shall be a resident of the state who is not a bail bond company owner, elected judge, sheriff, or chief of police.~~

~~(B)(i) No two (2) of the three (3) bail bondsman members shall reside in the same congressional district.~~

~~(ii) At least one (1) board member shall be an African American.~~

~~(iii) At least one (1) board member shall be a female.~~

~~(4) The board shall have the authority and responsibility to administer and enforce the provisions of this chapter relating to licensing and regulation of professional bail bond companies and professional bail bondsmen.~~

~~(5) The board shall have the authority to adopt and enforce such reasonable rules and regulations as it shall determine to be necessary to enable it to effectively and efficiently carry out its official duty of~~

1 ~~licensing and regulating professional bail bond companies and professional~~  
2 ~~bail bondsmen.~~

3 ~~(c) The members of the board shall receive expense reimbursement in~~  
4 ~~accordance with § 25-16-901 et seq., and a stipend pursuant to § 25-16-904.~~

5 ~~(d) The provisions of this section shall not be construed to repeal~~  
6 ~~any laws in effect on August 13, 1993, relating to the licensing and~~  
7 ~~regulation of professional bail bond companies and professional bail bondsmen~~  
8 ~~but such laws shall remain in full force and effect and shall be administered~~  
9 ~~by the board created herein.~~

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11 SECTION 5. Arkansas Code § 17-19-108 is repealed.

12 ~~17-19-108. Rules and regulations.~~

13 ~~The Professional Bail Bond Company and Professional Bail Bondsman~~  
14 ~~Licensing Board shall adopt such reasonable rules and regulations as it shall~~  
15 ~~deem necessary to assure the effective and efficient administration of §§ 17-~~  
16 ~~19-107, 17-19-212, and 17-19-401 et seq.~~

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18 SECTION 6. Arkansas Code § 17-19-110(b), concerning a licensed bail  
19 bond agents license, is amended to read as follows:

20 (b) A licensed bail bond agent shall carry a current copy of his or  
21 her company's license, his or her bail bond agent license, and a current copy  
22 of his or her qualifying power of attorney that is on file with the  
23 ~~Professional Bail Bond Company and Professional Bail Bondsman Licensing Board~~  
24 Secretary of State.

25  
26 SECTION 7. Arkansas Code § 17-19-111 is amended to read as follows:

27 17-19-111. Fees.

28 (a) Notwithstanding any other provisions of this chapter to the  
29 contrary, and notwithstanding any other provisions of Arkansas law to the  
30 contrary, professional bail bond companies are hereby required to charge,  
31 collect, and remit the following fees for direct deposit as special revenues  
32 into the ~~State Insurance Department Trust Fund~~ Secretary of State Bail Bond  
33 Licensing Trust Fund for the support, personnel, maintenance, and operations  
34 of the ~~State Insurance Department~~ Secretary of State, in addition to any  
35 other fees, taxes, premium taxes, levies, or other assessments imposed in  
36 connection with the issuance of bail bonds by professional bail bond

1 companies under Arkansas law.

2 (b)(1) In addition to the bail or appearance bond premium or  
 3 compensation allowed under § 17-19-301, each licensed professional bail bond  
 4 company shall charge and collect as a nonrefundable fee for the fund an  
 5 additional ten dollar (\$10.00) fee per bail bond for giving bond for each and  
 6 every bail and appearance bond issued by the licensed professional bail bond  
 7 company by or through its individual licensees.

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

11 (3) The notarized quarterly reporting form and a notarized  
 12 annual reconciliation form as to all fees collected for the fund shall be  
 13 filed by each professional bail bond company on forms prescribed by the  
 14 ~~commissioner~~ Secretary of State and at the times and in the manner as the  
 15 ~~commissioner~~ Secretary of State shall prescribe in conformity with this  
 16 section.

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

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

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

32 (3) The ~~commissioner~~ Secretary of State may pursue any  
 33 appropriate legal remedies on behalf of the fund to collect any delinquent  
 34 fees and penalties owed as special revenues.

35 (d)(1) Upon collection of the fees and any monetary penalties, the  
 36 ~~commissioner~~ Secretary of State shall deposit all fees and penalties directly

1 into the fund as special revenues.

2 (2) The fees and penalties shall be in addition to all other  
 3 fees, licensure or registration fees, taxes, assessments, levies, or  
 4 penalties payable to any federal or state office, court, agency, board, or  
 5 commission or other public official or officer of the state, or its political  
 6 subdivisions, including counties, cities, or municipalities, by professional  
 7 bail bond companies.

8 (3)(A) Each individual bail bondsman is required to assist in  
 9 collection of the fees, but is exempt from the duty and responsibility of  
 10 payment of the fees to the fund unless he or she misappropriates or converts  
 11 such moneys to his or her own use or to the use of others not entitled to the  
 12 fees.

13 (B) In that case, the ~~commissioner~~ Secretary of State  
 14 shall proceed on behalf of the fund with any civil or criminal remedies at  
 15 his or her disposal against the individual responsible.

16 (C) Upon criminal conviction of the individual responsible  
 17 for fraudulent conversion of the moneys due the fund, the individual  
 18 responsible shall pay restitution to the trust fund, and the court shall  
 19 incorporate a finding to that effect in its order.

20 (D) Absent substantial evidence to the contrary, the  
 21 violations of the individual may be attributed to the employing bail bond  
 22 company, and any criminal or civil court may, in its discretion and upon  
 23 substantial evidence, order the employing bail bond company to pay  
 24 restitution to the fund on behalf of the responsible individual and shall  
 25 incorporate that finding into its order.

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

33 (f) Under no circumstances shall the fees or penalties thereon held in  
 34 or for deposit into the fund as special revenues be subject to any tax, levy,  
 35 or assessment of any kind, including, but not limited to, any bond forfeiture  
 36 claims, any garnishment or general creditors' claims, any remedies under

1 title 19 of this Code, or other provisions of Arkansas law.

2 (g)(1) At the beginning of each fiscal year, the ~~department~~ Secretary  
 3 of State shall certify to the Chief Fiscal Officer of the State an amount  
 4 sufficient to provide for personal services and operating expenses of the  
 5 ~~Professional Bail Bond Company and Professional Bail Bondsman Licensing Board~~  
 6 Professional Bail Bond Company and Bondsman Licensing Division of the  
 7 Secretary of State's office.

8 (2) The Chief Fiscal Officer of the State shall then transfer  
 9 the certified amount from the ~~State Insurance Department Trust Fund~~  
 10 Secretary of State Bail Bond Licensing Trust Fund to the ~~Bail Bondsman Board~~  
 11 Fund Secretary of State.

12  
 13 SECTION 8. Arkansas Code § 17-19-202 is amended to read as follows:  
 14 17-19-202. Applications.

15 (a) Every applicant for a professional bail bondsman license or a  
 16 professional bail bond company license shall apply on forms furnished by the  
 17 ~~Professional Bail Bond Company and Professional Bail Bondsman Licensing Board~~  
 18 Secretary of State.

19 (b) The application of a professional bail bondsman shall be  
 20 accompanied by a duly executed power of attorney issued by the professional  
 21 bail bond company for whom the professional bail bondsman will be acting.

22 (c)(1) An application for a professional bail bond company license  
 23 shall be accompanied by proof that the applicant is an Arkansas partnership,  
 24 firm, or corporation, a foreign corporation registered and authorized to  
 25 conduct business in the State of Arkansas, or an individual who is a resident  
 26 of the state.

27 (2) A corporation shall file proof that its most recent annual  
 28 franchise tax has been paid to the Secretary of State.

29 (d)(1)(A) At the time of application for every professional bail bond  
 30 company license, there shall be paid to the ~~board~~ Secretary of State:

31 (i) For a new company license, a fee of two thousand  
 32 five hundred dollars (\$2,500); or

33 (ii) For a renewal of a company license, a fee of  
 34 one thousand dollars (\$1,000).

35 (B) Each professional bail bond company license or renewal  
 36 for a sole proprietor, partnership, or corporation shall include one (1)

1 license for one (1) agent per company per year.

2 (2) Each applicant for a professional bail bondsman license  
 3 shall pay the board a license fee of one hundred dollars (\$100) at the time  
 4 of application, except that if the applicant is also an applicant as an  
 5 individual for a professional bail bond company license, then the applicant  
 6 shall not be required to pay a license fee for licensure as a professional  
 7 bail bondsman but shall comply with all other requirements for licensure as a  
 8 professional bail bondsman.

9 (3) License fees shall be payable in full on a yearly basis  
 10 regardless of the date of issuance.

11 (4) Any agent that transfers his or her license from one  
 12 professional bail bond company to another shall pay a transfer fee of two  
 13 hundred fifty dollars (\$250) to the ~~board~~.

14  
 15 SECTION 9. Arkansas Code § 17-19-203(1), concerning character  
 16 references for bail bondsman applicants, is amended to read as follows:

17 (1) File with the ~~Professional Bail Bond Company and~~  
 18 ~~Professional Bail Bondsman Licensing Board~~ Secretary of State written  
 19 statements from at least three (3) persons who know his or her character;  
 20

21 SECTION 10. Arkansas Code § 17-19-204 is amended to read as follows:  
 22 17-19-204. Examination.

23 (a) In order to determine the competence of each applicant for a  
 24 professional bail bondsman license, the ~~Professional Bail Bond Company and~~  
 25 ~~Professional Bail Bondsman Licensing Board~~ Secretary of State shall require  
 26 every individual to submit to, and to pass to the satisfaction of the ~~board~~  
 27 Secretary of State, a written examination to be prepared by the ~~board~~  
 28 Secretary of State and appropriate to the transaction of bail bond business.

29 (b) Such an examination shall be held in a location and at such times  
 30 as the ~~board~~ Secretary of State shall determine.

31 (c) Every individual applying to take a written examination shall, at  
 32 the time of applying therefor, pay to the ~~board~~ Secretary of State a  
 33 nonrefundable examination fee of twenty-five dollars (\$25.00).

34 (d) If the application is approved, and if the nonrefundable  
 35 examination fee is paid, an examination permit will be issued to the  
 36 applicant. The permit will be valid for a period of ninety (90) days from the

1 date of issuance. If the applicant does not schedule and appear for  
 2 examination within that ninety-day period, the permit shall expire and the  
 3 applicant may be required to file a new application, and shall pay another  
 4 nonrefundable examination fee of twenty-five dollars (\$25.00) before issuance  
 5 of another examination permit to the applicant.

6 (e) If the applicant appears for examination but fails to pass the  
 7 examination, the applicant may apply for reexamination. The reexamination fee  
 8 shall be a nonrefundable fee of fifteen dollars (\$15.00). The ~~board~~  
 9 Secretary of State may require a waiting period of eight (8) weeks before  
 10 reexamination of an applicant who twice failed to pass previous similar  
 11 examinations.

12  
 13 SECTION 11. Arkansas Code § 17-19-205(a), concerning letter of credit  
 14 required for professional bail bond companies, is amended to read as follows:

15 (a)(1) An applicant for a professional bail bond company license shall  
 16 file with the ~~Professional Bail Bond Company and Professional Bail Bondsman~~  
 17 ~~Licensing Board~~ Secretary of State an irrevocable letter of credit from an  
 18 Arkansas chartered bank or a federally chartered bank in Arkansas or a  
 19 certificate of deposit.

20 (2)(A) The letter of credit or certificate of deposit shall be  
 21 approved by the ~~board~~ Secretary of State as to form and sufficiency and shall  
 22 be conditioned upon faithful performance of the duties of the licensee.

23 (B) The minimum amount for any professional bail bond  
 24 company initially licensed on or before July 1, 1989, shall be twenty-five  
 25 thousand dollars (\$25,000).

26 (C) The minimum amount for any professional bail bond  
 27 company initially licensed after July 1, 1989, shall be one hundred thousand  
 28 dollars (\$100,000).

29 (D) Professional bail bond companies and professional bail  
 30 bondsmen who were licensed under Act 400 of 1971 [repealed] prior to March 8,  
 31 1989, shall only be required to file or have on file with the ~~board~~ Secretary  
 32 of State a letter of credit or certificate of deposit approved by the ~~board~~  
 33 Secretary of State as to form and sufficiency, in a minimum amount of five  
 34 thousand dollars (\$5,000), conditioned upon the faithful performance of the  
 35 duties of the licensee, provided they do not exceed the maximum amount of  
 36 unsecured bond commitments as provided in § 17-19-304.



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SECTION 12. Arkansas Code § 17-19-206 is amended to read as follows:

17-19-206. ~~Duties of board and clerks~~ Duties of the Secretary of State and its clerks.

(a) Before issuance of a license under the provisions of this chapter, every applicant for a license shall satisfy the ~~Professional Bail Bond Company and Professional Bail Bondsman Licensing Board~~ Secretary of State as to Arkansas residency, trustworthiness, and competence, as applicable, and shall otherwise comply with the conditions and qualifications set forth in this chapter.

(b)(1) The ~~board~~ Secretary of State may refuse to issue any license to an applicant who fails to comply with the provisions of this chapter or rule or regulation of the ~~board~~ Secretary of State.

(2) The ~~board~~ Secretary of State may refuse to issue any such license to any applicant that has made a material misrepresentation in the application for such a license.

(c) Upon the approval and issuance of any license provided for under this chapter, the ~~board~~ Secretary of State shall give written notice to the sheriff and circuit clerk of each county in the state.

(d) Upon revocation or suspension of license, the ~~board~~ Secretary of State shall give written notice to that effect to the sheriff and circuit clerk in each county in the state.

(e) The sheriff and circuit clerk in each county shall maintain a complete record of registrations, revocations, and suspensions.

(f) Annually, the ~~board~~ Secretary of State shall furnish the sheriffs and circuit clerks with a list of renewal licenses.

SECTION 13. Arkansas Code § 17-19-207 is amended to read as follows:

17-19-207. Expiration and renewal.

(a) Every license issued pursuant to this chapter shall be for a term expiring on December 31 following the date of its issuance, and it may be renewed for the ensuing calendar year upon the filing of a renewal application.

(b) The ~~Professional Bail Bond Company and Professional Bail Bondsman Licensing Board~~ Secretary of State may refuse to renew a license for any cause for which issuance of the original license could have been refused or

1 for the licensee’s violation of any of the provisions of this chapter or the  
 2 rules and regulations of the board.

3 (c) Every licensee shall be required to file a renewal application,  
 4 the form and subject matter of which shall be prescribed by the ~~board~~  
 5 Secretary of State.

6 (d)(1) At the time of application for renewal of a professional bail  
 7 bond company license, there shall be paid to the ~~board~~ Secretary of State for  
 8 the company’s renewal license a fee of one thousand dollars (\$1,000).

9 (2) Each professional bail bondsman shall pay a fee of one  
 10 hundred dollars (\$100) for renewal of the license, except that if the  
 11 applicant for renewal also holds a professional bail bond company license,  
 12 then the applicant shall not be required to pay a renewal fee for a  
 13 professional bail bondsman license.

14  
 15 SECTION 14. Arkansas Code § 17-19-208 is amended to read as follows:  
 16 17-19-208. Civil action - Administrative action.

17 (a)(1) If during the term of the letter of credit or certificate of  
 18 deposit any licensee shall be guilty of misconduct or malfeasance in his or  
 19 her dealings with any court or magistrate or officer or with any person or  
 20 company in connection with any deposit or bail bond, the ~~Professional Bail~~  
 21 ~~Bond Company and Professional Bail Bondsman Licensing Board~~ Attorney General  
 22 may maintain a civil action on the letter of credit or certificate of  
 23 deposit, or may maintain an administrative action on any certificate of  
 24 deposit. The ~~board~~ Attorney General may recover for the use and benefit of  
 25 the person or persons aggrieved a maximum amount of ten thousand dollars  
 26 (\$10,000). The provisions of this subdivision (a)(1) shall be in addition to  
 27 all other remedies available to the aggrieved person and nothing in this  
 28 subdivision (a)(1) shall be construed as limiting the liability of a  
 29 professional bail bond company or a professional bail bondsman.

30 (2) The ~~board~~ Secretary of State may suspend the license of such  
 31 a licensee until such time as the board recovers the full amount allowable or  
 32 recovers for the benefit of the persons aggrieved the amount of loss or  
 33 injury sustained pursuant to subdivision (a)(1) of this section, and until  
 34 such time as the licensee has filed with the board an additional letter of  
 35 credit or certificate of deposit in the required amount. The ~~board~~ Secretary  
 36 of State shall promptly notify the licensee as provided in subdivision (b)(2)

1 of this section.

2 (b)(1) When a final civil judgment for court-ordered bond forfeitures  
 3 is entered as to a bail bond issued by the licensee by a court of competent  
 4 jurisdiction in this state and the judgment is not paid within ninety (90)  
 5 days thereafter, the court may send a copy of the judgment, duly certified by  
 6 the clerk of the court, to the ~~board~~ Secretary of State and Attorney General  
 7 and after having given proof to the ~~board~~ Secretary of State of service of  
 8 process on the licensee in accordance with present laws governing service of  
 9 process on defendants in other civil actions. The ~~board~~ Attorney General may  
 10 promptly make a claim on the surety for payment of the allowable amount of  
 11 the licensee's letters of credit on behalf of the court or shall withdraw the  
 12 allowable amount of the licensee's certificates of deposit and shall transmit  
 13 to the clerk of the court so much of the securities as are allowable. The  
 14 ~~board~~ Secretary of State shall honor the judgments from the respective courts  
 15 up to the limits set out in subdivision (a)(1) of this section.

16 (2) Upon receipt of the judgment and proof of notice of service  
 17 on the licensee, the ~~board~~ Secretary of State may suspend the license of the  
 18 licensee until such time as the judgment is paid or otherwise satisfied and  
 19 until such time as the licensee has filed with the board another letter of  
 20 credit or certificate of deposit in the required amount. The ~~board~~ Secretary  
 21 of State shall promptly notify the licensee in writing by certified mail of  
 22 the claims upon the licensee's letter of credit or certificates of deposit  
 23 and shall also include a copy of the board's order of suspension.

24 (3) If the allowable amount of the letter of credit or  
 25 certificate of deposit filed with the ~~board~~ Secretary of State is not  
 26 sufficient to pay or otherwise satisfy the judgments as to bail bonds issued  
 27 by the professional bail bond company in § 17-19-205(a), the ~~board~~ Attorney  
 28 General may promptly make a claim against the professional bail bond company  
 29 on behalf of the court.

30 (c) In the event a professional bail bond company fails to file with  
 31 the ~~board~~ Secretary of State the additional letter of credit or certificate  
 32 of deposit to maintain the license within ninety (90) days from the effective  
 33 date of the ~~board's~~ Secretary of State's order of suspension as provided in  
 34 subdivisions (a)(2), (b)(2), or (b)(3) of this section, the ~~board~~ Secretary  
 35 of State shall cancel the license of the licensee and shall promptly notify  
 36 the licensee as provided in subdivision (b)(2) of this section.

1 (d) Upon the nonrenewal, cancellation, or revocation of any license  
 2 hereunder, the ~~board~~ Secretary of State will release to the licensee the  
 3 qualifying bonds or certificates of deposit filed with the ~~board~~ Secretary of  
 4 State only upon receipt of written documentation from all the courts in all  
 5 the counties in which the licensee engaged in business that all bonds issued  
 6 by the licensee have been exonerated, and that no unpaid bond forfeitures  
 7 remain outstanding, and that all civil judgments as to forfeitures on bonds  
 8 issued by the licensee have been paid in full.

9 (e) If a company license has been revoked because of unpaid judgments,  
 10 during the appeals process the company shall file a supersedeas bond in the  
 11 amount of the unpaid judgments with the court in which the appeal is taken.  
 12

13 SECTION 15. Arkansas Code § 17-19-209 is amended to read as follows:  
 14 17-19-209. Violations - Hearings.

15 (a) The ~~Professional Bail Bond Company and Professional Bail Bondsman~~  
 16 ~~Licensing Board~~ Attorney General shall investigate any alleged violation of  
 17 this chapter.

18 (b) Any person may file a complaint stating facts constituting an  
 19 alleged violation of this chapter. The complaint shall be signed under  
 20 penalty of perjury.

21 (c) All hearings held under this chapter shall be ~~conducted in the~~  
 22 ~~same manner as hearings held by the board under the Arkansas Administrative~~  
 23 ~~Procedure Act, § 25-15-201 et seq., unless otherwise stated in this chapter~~  
 24 heard in the district court of the county where the violation occurred or  
 25 Pulaski County.

26 (d)(1) With respect to the subject of any examination, investigation,  
 27 or hearing being conducted by the ~~board~~ Attorney General, the ~~board~~ Attorney  
 28 General may subpoena witnesses and administer oaths and affirmations, and  
 29 examine any individual under oath, and may require and compel the production  
 30 of records, books, papers, contracts, and other documents.

31 (2) Subpoenas of witnesses shall be served in the same manner as  
 32 if issued by a circuit court and may be served by certified mail.

33 (3) If any individual fails to obey a subpoena issued and served  
 34 pursuant to this section with respect to any matter concerning which he or  
 35 she may be lawfully interrogated, upon application of the ~~board~~ Secretary of  
 36 State, the Circuit Court of Pulaski County may issue an order requiring the

1 individual to comply with the subpoena and to testify.

2 (4) Any failure to obey the order of the court may be punished  
3 by the court as a contempt thereof.

4 (5) Any person willfully testifying falsely under oath to any  
5 matter material to any examination, investigation, or hearing shall upon  
6 conviction be guilty of perjury and punished accordingly.

7 (e) Not less than ten (10) days in advance, the ~~board~~ Attorney General  
8 shall give notice of the time and place of the hearing, stating the matters  
9 to be considered at the hearing.

10 (f) The ~~board~~ Attorney General shall allow any party to the hearing to  
11 appear in person and by counsel, to be present during the giving of all  
12 evidence, to have a reasonable opportunity to inspect all documentary  
13 evidence and to examine witnesses, to present evidence in support of his or  
14 her interest, and to have subpoenas issued by the ~~board~~ Attorney General to  
15 compel attendance of witnesses and production of evidence in his or her  
16 behalf.

17 (g)(1) A party may appeal from any order of ~~the board~~ a district court  
18 as a matter of right and shall be taken to the Circuit Court of Pulaski  
19 County by filing written notice of appeal to the court.

20 (2) Upon filing of the notice of appeal therein, the court shall  
21 have full jurisdiction and shall operate as a stay of the order or action  
22 appealed from, unless otherwise ordered by the court.

23 (3) Within thirty (30) days after filing the copy of a notice of  
24 appeal with the ~~board~~ Attorney General, the ~~board~~ Attorney General shall  
25 make, certify, and deposit in the office of the clerk of the court in which  
26 the appeal is pending a full and complete transcript of all proceedings and  
27 all evidence in the matter, including all files therein.

28  
29 SECTION 16. Arkansas Code § 17-19-210 is amended to read as follows:  
30 17-19-210. Suspension - Review.

31 (a) The ~~Professional Bail Bond Company and Professional Bail Bondsman~~  
32 ~~Licensing Board~~ district court may suspend for up to twelve (12) months or  
33 revoke or refuse to continue any license issued pursuant to the provisions of  
34 this chapter if, after notice and hearing, the ~~board~~ district court  
35 determines that the licensee or any member of a company which is so licensed  
36 has:

1 (1) Violated any provision of, or any obligation imposed by,  
 2 this chapter or any lawful rule, regulation, or order of the board or has  
 3 been convicted of a felony or any offense involving moral turpitude;

4 (2) Made a material misstatement in the application for license,  
 5 in the application for renewal license, or in the financial statement which  
 6 accompanies the application or renewal application for license as a  
 7 professional bail bond company;

8 (3) Committed any fraudulent or dishonest acts or practices or  
 9 demonstrated his or her incompetency or untrustworthiness to act as such a  
 10 licensee;

11 (4) Charged or received, as premium or compensation for the  
 12 making of any deposit or bail bond, any sum in excess of that permitted by  
 13 law;

14 (5) Required as a condition of his or her executing a bail bond  
 15 that the principal agree to engage the services of a specified attorney;

16 (6) Signed, executed, or issued bonds with endorsements in  
 17 blank, or prepared or issued fraudulent or forged bonds or power of attorney;

18 (7) Failed in the applicable regular course of business to  
 19 account for and to pay premiums held by the licensee in a fiduciary capacity  
 20 to the professional bail bond company or other person entitled thereto; or

21 (8) Failed to comply with the provisions of the laws of this  
 22 state, or rule, regulation, for which issuance of the license could have been  
 23 refused had it then existed and been known.

24 (b) The acts or conduct of any professional bail bondsman who acts  
 25 within the scope of the authority delegated to him or her shall also be  
 26 deemed the act or conduct of the professional bail bond company for which the  
 27 professional bail bondsman is acting as agent.

28 (c) If the ~~board~~ district court finds that one (1) or more grounds  
 29 exist for the suspension or revocation of any license, the ~~board~~ Secretary of  
 30 State may in its discretion request that formal charges be filed against the  
 31 violator and that penalties set out in § 17-19-102 be imposed.

32 (d) If the ~~board~~ district court finds that one (1) or more grounds  
 33 exist for the suspension or revocation of a license and that the license has  
 34 been suspended within the previous twenty-four (24) months, then the ~~board~~  
 35 district court shall issue an order and give notice to the Secretary of State  
 36 to revoke the license.

1 (e) The ~~board~~ Secretary of State may not again issue a license under  
 2 this chapter to any person or entity whose license has been revoked.

3 (f) If the ~~board~~ Attorney General determines that the public health,  
 4 safety, or welfare imperatively requires emergency action, and incorporates a  
 5 finding to that effect in its order, a summary suspension of a license issued  
 6 pursuant to this chapter may be ordered pending an ~~administrative~~ hearing  
 7 before the ~~board~~ district court, which shall be promptly instituted.

8 (g) If a professional bail bond company license is so suspended or  
 9 revoked, no member of the company or officer or director of the corporation  
 10 shall be licensed or be designated in any license to exercise the powers  
 11 thereof during the period of the suspension or revocation, unless the ~~board~~  
 12 Attorney General determines upon substantial evidence that the member,  
 13 officer, or director was not personally at fault and did not acquiesce in the  
 14 matter on account of which the license was suspended or revoked.

15 (h) The action of the ~~board~~ district court in issuing or refusing to  
 16 issue or in suspending or revoking any license shall be subject to review by  
 17 the Circuit Court of Pulaski County upon filing of an action therefor within  
 18 thirty (30) days after the issuance of ~~written notice by the board~~ the  
 19 district court of the action taken.

20  
 21 SECTION 17. Arkansas Code § 17-19-211 is amended to read as follows:

22 17-19-211. Administrative penalty.

23 If the ~~Professional Bail Bond Company and Professional Bail Bondsman~~  
 24 ~~Licensing Board~~ district court finds that one (1) or more grounds exist for  
 25 the suspension or revocation of any license, the ~~board~~ district court in its  
 26 discretion, and in lieu of suspension or revocation, may impose upon the  
 27 licensee an ~~administrative~~ penalty in an amount not to exceed five thousand  
 28 dollars (\$5,000).

29  
 30 SECTION 18. Arkansas Code § 17-19-212 is amended to read as follows:

31 17-19-212. Licenses.

32 Each applicant for an initial bail bondsman license who satisfactorily  
 33 completes the examination and meets the other qualifications and requirements  
 34 prescribed by law, including the completion of a minimum of eight (8) hours  
 35 of education in subjects pertaining to the authority and responsibilities of  
 36 a bail bondsman and a review of the laws and regulations relating thereto,

1 shall be licensed by the ~~Professional Bail Bond Company and Professional Bail~~  
 2 ~~Bondsman Licensing Board~~ Secretary of State.

3  
 4 SECTION 19. Arkansas Code 17-19-301 is amended to read as follows:  
 5 17-19-301. Premiums.

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

10 (b) The minimum compensation for giving bond or depositing money or  
 11 property as bail on any bond shall be not less than thirty-five dollars  
 12 (\$35.00).

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

22 (d)(1)(A) In addition to the ten percent (10%) bail or appearance bond  
 23 premium or compensation allowed in subsection (a) of this section, and  
 24 commencing on April 1, 1993, each licensed professional bail bond company  
 25 shall charge and collect as a nonrefundable administrative and regulatory fee  
 26 for the ~~State Insurance Department Trust Fund~~ Secretary of State Bail Bond  
 27 Licensing Trust Fund an additional ten dollars (\$10.00) per bond fee for  
 28 giving bond for each and every bail and appearance bond issued by the  
 29 licensed professional bail bond company by or through its individual  
 30 licensees.

31 (B) The administrative and regulatory fees payable by  
 32 these companies to the fund for the support and operation of the department,  
 33 and collected by the bail bond companies as required by this section, shall  
 34 be reported and filed with the ~~Insurance Commissioner~~ Secretary of State no  
 35 later than fifteen (15) calendar days after the end of each calendar quarter,  
 36 contemporaneous with the professional bail bond company's filing of its



1 quarterly bail bond report with the department.

2 (C) A notarized annual reconciliation of all such fees  
 3 collected in the preceding calendar year for the fund shall be filed by each  
 4 licensed professional bail bond company at a time and on forms prescribed by  
 5 the ~~commissioner~~ Secretary of State.

6 (D) The ~~commissioner~~ Secretary of State may in his or her  
 7 discretion grant an extension for good cause shown upon timely written  
 8 request.

9 (E) In no event shall the administrative and regulatory  
 10 fees payable by the bail bond companies to the fund exceed ten dollars  
 11 (\$10.00) per bond, as required by this subchapter, exclusive of statutory  
 12 licensure fees elsewhere in this chapter.

13 (2)(A) Absent an extension the ~~commissioner~~ Secretary of State  
 14 granted for good cause to a company and in addition to any license suspension  
 15 or revocation, the ~~commissioner~~ Secretary of State may in his or her  
 16 discretion order after notice and a hearing a professional bail bond company  
 17 failing timely to report or pay the regulatory fee to the fund by and through  
 18 the ~~commissioner~~ Secretary of State shall be liable to the fund for a  
 19 monetary penalty of one hundred dollars (\$100) per day for each day of  
 20 delinquency.

21 (B) The ~~commissioner~~ Attorney General may pursue any  
 22 appropriate legal remedies on behalf of the fund to collect any delinquent  
 23 fees and penalties owed pursuant to this section as special revenues to the  
 24 fund.

25 (3) Upon collection of the regulatory fees and any monetary  
 26 penalties payable to the fund and assessed under this section, the  
 27 ~~commissioner~~ Secretary of State shall deposit all fees and penalties directly  
 28 into the fund as special revenues.

29 (4)~~(A)~~ Upon failure of the bail bond company to remit the fees  
 30 timely, the ~~commissioner~~ Attorney General may pursue civil legal remedies  
 31 against the noncomplying bail bond company on behalf of the fund to recover  
 32 the balance of the fees and any penalties owed.

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

36 (5)(A) Other than sole proprietors licensed as professional bail

1 bond companies, individual bail bondsmen are exempt from the duty and  
 2 responsibility of payment of the administrative and regulatory fees to the  
 3 fund, except that the individual licenses of such individual employees of the  
 4 professional bail bond company may be suspended or revoked by the  
 5 ~~commissioner~~ Secretary of State pursuant to the administrative procedures  
 6 provided in this chapter if the individual licensee fails to comply with his  
 7 or her duties in proper collection of the bail bond premiums earmarked for  
 8 later payment to the fund pursuant to this subsection, if he or she converts  
 9 such moneys to his or her own use, or commits other infractions in regard to  
 10 collection of such premium amounts.

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

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

22 (6)(A) For purposes of § 17-19-205 requiring the professional  
 23 bail bond company's deposit of a letter of credit or certificate of deposit  
 24 for the faithful performance of its duties, the company's payment of the  
 25 administrative and regulatory fee as required by this subsection shall be  
 26 considered to be and shall be a duty of the licensee so as to allow the  
 27 ~~commissioner~~ Secretary of State to make a claim against the security deposit  
 28 required in § 17-19-205 on behalf of the fund for the balance of any owed and  
 29 unpaid administrative and regulatory fees the professional bail bond company  
 30 still owes to the fund, and the ~~commissioner~~ Attorney General shall promptly  
 31 proceed to make claims against such security deposits on behalf of the fund,  
 32 up to the limit of the company's deposit for any remaining fee balance due,  
 33 in the manner provided in this subchapter for any claim against the deposit  
 34 required herein.

35 (B) Under no circumstances shall such deposits held for  
 36 the fund, or fees or any moneys deposited into the fund be subject to any

1 levy or assessment of any kind, including forfeiture claims, misconduct  
2 claims, or general creditor claims of the bail bond company, subject to  
3 garnishment or other creditors' remedies under Title 19 or other provisions  
4 of Arkansas law.

5 (e) The administrative and regulatory fees imposed on professional  
6 bail bond companies under this section shall be in addition to all other  
7 fees, taxes and assessments, and penalties licensed professional bail bond  
8 companies pay the State of Arkansas through the department or other state  
9 agencies under other laws.

10  
11 SECTION 20. Arkansas Code § 17-19-303 is amended to read as follows:  
12 17-19-303. Bail bonds - Numbers - Report.

13 (a) Bail bonds shall be written on numbered forms.

14 (b) ~~The Professional Bail Bond Company and Professional Bail Bondsman~~  
15 ~~Licensing Board~~ Secretary of State shall assign numbers for forms to  
16 professional bail bond companies and shall prescribe the method of affixing  
17 the numbers to the forms.

18 (c)(1) Each professional bail bond company shall file a bail bond  
19 report quarterly with the ~~board~~ Secretary of State.

20 (2) The report shall include the following information on each  
21 bail bond:

- 22 (A) The assigned number of the bond and current status of
- 23 the bond, whether pending disposition or exonerated;
- 24 (B) To whom the bond was written;
- 25 (C) The date the bail bond was written;
- 26 (D) The defendant and the charges against the defendant;
- 27 (E) The court;
- 28 (F) The amount of the bail bond; and
- 29 (G) The portion of the bail bond that is secured and the
- 30 unsecured portion.

31  
32 SECTION 21. Arkansas Code § 17-19-304 is amended to read as follows:  
33 17-19-304. Maximum amount of unsecured bond.

34 The maximum amount of unsecured bond commitment allowed for a  
35 professional bail bond company shall be determined by the following formulas:

- 36 (1) Not to exceed one hundred thousand dollars (\$100,000) for

1 each twenty-five thousand dollars (\$25,000) of letters of credit or  
 2 certificates of deposit filed with the ~~Professional Bail Bond Company and~~  
 3 ~~Professional Bail Bondsman Licensing Board~~ Secretary of State by the  
 4 professional bail bond company; and

5 (2) Ten (10) times the net worth of the professional bail bond  
 6 company as stated on the financial statement filed with the ~~board~~ Secretary  
 7 of State at the time of licensing or annual license renewal. The financial  
 8 statements must be prepared in accordance with standards established by the  
 9 American Institute of Certified Public Accountants.

10  
 11 SECTION 22. Arkansas Code § 17-19-305 is amended to read as follows:  
 12 17-19-305. Appearance bond.

13 Upon issuance of the license, a professional bail bondsman shall not  
 14 issue an appearance bond exceeding the monetary amount for each recognizance  
 15 which is specified in and authorized by the power of attorney filed with the  
 16 ~~Professional Bail Bond Company and Professional Bail Bondsman Licensing Board~~  
 17 Secretary of State until the ~~board~~ Secretary of State receives a duly  
 18 executed power of attorney from the professional bail bond company evidencing  
 19 or authorizing increased monetary limits or amounts for the recognizance.

20  
 21 SECTION 23. Arkansas Code § 17-19-402 is amended to read as follows:  
 22 17-19-402. Establishment of program - Schedule of fees.

23 (a) The ~~Professional Bail Bond Company and Professional Bail Bondsman~~  
 24 ~~Licensing Board~~ Secretary of State shall on an annual basis solicit proposals  
 25 from interested parties, and upon review of the proposals from all  
 26 applicants, designate an entity or entities to establish an education program  
 27 for professional bail bondsmen which will enable bail bondsmen to meet the  
 28 education and continuing education requirements of §§ 17-19-212 and 17-19-401  
 29 et seq.

30 (b)(1) The ~~board~~ Secretary of State or its designee shall establish a  
 31 schedule of fees to be paid by each bail bondsman for the educational  
 32 training.

33 (2) The schedule of fees shall be subject to approval of the  
 34 ~~board~~ the Secretary of State and the Attorney General.