

Stricken language would be deleted from present law. Underlined language would be added to present law.

1 State of Arkansas
2 81st General Assembly
3 Regular Session, 1997

A Bill

ACT 973 OF 1997
HOUSE BILL 2125

4
5 By: Representative Vess
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For An Act To Be Entitled

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9 "AN ACT TO AMEND CHAPTER 84 OF TITLE 16 AND CHAPTER 19 OF
10 TITLE 17 OF THE ARKANSAS CODE OF 1987 ANNOTATED, RELATING
11 TO PROFESSIONAL BAIL BONDSMEN AND BAIL BONDS; AND FOR
12 OTHER PURPOSES."
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Subtitle

14
15 "TO AMEND CHAPTER 84 OF TITLE 16 AND
16 CHAPTER 19 OF TITLE 17 OF THE ARKANSAS
17 CODE, RELATING TO PROFESSIONAL BAIL
18 BONDSMEN AND BAIL BONDS"
19

20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code Annotated § 16-84-101 is amended to read as
23 follows:

24 "16-84-101. Definitions.

25 As used in this chapter, unless the context otherwise requires:

26 (1) Admission to bail means an order from a competent court or
27 magistrate that the defendant be discharged from actual custody on bail and
28 fixing the amount of the bail;

29 (2) Professional bail bondsman means an individual licensed as a
30 professional bail bondsman by the ~~Insurance Commissioner~~ Professional Bail
31 Bond Company and Professional Bail Bondsman Licensing Board pursuant to
32 § 17-19-201 et seq.

33 (3) Professional bail bond company means a person holding a
34 professional bail bond company license issued by the ~~Insurance Commissioner~~
35 Professional Bail Bond Company and Professional Bail Bondsman Licensing Board
36 pursuant to § 17-19-201 et seq.

1 (4) Surety means the person who becomes the surety for the appearance
 2 of the defendant in court; and

3 (5) Taking of bail or Take bail means the acceptance by a person
 4 authorized to take bail of the undertaking of a sufficient surety for the
 5 appearance of the defendant according to the terms of the undertaking, or that
 6 the surety will pay to the court the sum specified. Taking of bail or take
 7 bail shall not include the fixing of the amount of bail and no person other
 8 than a competent court or magistrate shall fix the amount of bail."

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10 SECTION 2. Arkansas Code Annotated § 16-84-103 is amended to read as
 11 follows:

12 "16-84-103. Qualification of surety.

13 (a) The surety shall be: (1) a professional bail bondsman acting
 14 through a professional bail bond company; or (2) a resident of the state,
 15 owner of visible property, over and above that exempt from execution, to the
 16 value of the sum in which bail is required, and shall be worth that amount
 17 after the payment of the surety's debts and liabilities.

18 (b)(1) The person or persons offered as surety shall be examined on
 19 oath in regard to their qualifications as surety, and any officer authorized
 20 to take bail is authorized to administer the oath, reduce the statements on
 21 oath to writing, and require the person offered as surety to sign the
 22 statement. Other proof may also be taken in regard to the sufficiency of the
 23 surety. Prior to submission to the court or magistrate, the statement shall
 24 also be signed by the sheriff or chief of police in the jurisdiction where the
 25 defendant is charged.

26 (2) Proof that the surety is a licensed professional bail
 27 bondsman shall be deemed sufficient proof of the sufficiency of the surety and
 28 the surety may be accepted by all courts in this state or by any ~~officer of~~
 29 ~~the court~~ individual authorized to take bail under the provisions of
 30 § 16-84-102.

31 (c) No person shall be taken as surety unless the court or magistrate
 32 is satisfied, from proof and examination on oath, of the sufficiency of the
 33 person according to the requisitions of subsection (b) of this section.

34 (d) Where more than one (1) person is offered as surety, they shall be
 35 deemed sufficient if, in the aggregate, they possess the qualifications
 36 required."

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SECTION 3. Arkansas Code Annotated § 16-84-104 is amended to read as follows:

"16-84-104. Additional security.

There shall be no rules, regulations, or requirements enacted by any judge, magistrate, sheriff, or other officer of the court, requiring any professional bail bondsman or professional bail bond company to post any sum of security in addition to that required by the ~~Commissioner of Insurance~~ Professional Bail Bond Company and Professional Bail Bondsman Licensing Board pursuant to § 17-19-205 as a requirement for acceptance or writing bail bonds."

SECTION 4. Arkansas Code Annotated § 16-84-107 is amended to read as follows:

"16-84-107. Form of bond.

(a) The undertaking of the surety, other than by a professional bail bondsman, shall be substantially as follows:

A.B., being in custody, charged with the offense of (naming or briefly describing it), and being admitted to bail in the sum of dollars, we C.D., of (stating his place of residence), and E.F., of (stating his place of residence), hereby undertake that the above named A.B. shall appear in the court on the day of its term to answer said charge, and shall at all times render himself amenable to the orders and process of said court in prosecution of said charge, and, if convicted, shall render himself in execution thereof; or if he fail to perform either of these conditions, that we will pay to the appropriate court the sum of dollars.

(b) If the surety is a professional bail bondsman, the undertaking of the surety shall be in a form prescribed by the regulations of the ~~Insurance Commissioner~~ Professional Bail Bond Company and Professional Bail Bondsman Licensing Board."

SECTION 5. Arkansas Code Annotated § 17-19-105 is amended to read as follows:

"17-19-105. Prohibitions.

No professional bail bondsman or professional bail bond company, nor

1 court, nor law enforcement officer nor any individual working on behalf of a
 2 professional bail bondsman or professional bail bond company, shall:

3 (1) ~~Suggest or advise the employment of or name for employment any~~
 4 ~~particular attorney to represent his principal~~ Require as a condition of his
 5 executing a bail bond that the principal agree to engage the services of a
 6 specified attorney;

7 (2) Solicit business or advertise for business in or about any place
 8 where prisoners are confined or in or about any court;

9 (3) Suggest or advise the engagement of any bail bond company or
 10 professional bail bondsman to underwrite a bail bond;

11 (4) Enter a police station, jail, sheriff's office, or other place
 12 where persons in custody of the law are detained for the purpose of obtaining
 13 employment as a professional bail bondsman or professional bail bond company,
 14 without having been previously called by a person so detained or by some
 15 relative or other authorized person acting for or in behalf of the person so
 16 detained. Whenever such entry occurs, the person in charge of the facility
 17 shall be given, and promptly record, the mission of the licensee and the name
 18 of the person calling the licensee and requesting him to come;

19 (5) Pay a fee or rebate or give or promise anything of value to:

20 (A) A jailer, policeman, peace officer, committing magistrate, or
 21 any other person who has power to arrest or to hold in custody; or

22 (B) Any public official or public employee in order to secure a
 23 settlement, compromise, remission, or reduction of the amount of any bail bond
 24 or estreatment thereof;

25 (6) Pay a fee or rebate or give anything of value to an attorney in
 26 bail bond matters, except in defense of any action on a bond;

27 (7) Pay a fee or rebate or give or promise anything of value to the
 28 principal or anyone in his behalf;

29 (8)(A) Participate in the capacity of an attorney at a trial or hearing
 30 of one on whose bond he is surety;

31 (B) Attempt to obtain settlement or dismissal of a case;

32 (C) Give or attempt to give any legal advice to one on whose bond
 33 he is surety; or

34 (9) Accept anything of value from a principal except the premium,
 35 provided that the licensee shall be permitted to accept collateral security or
 36 other indemnity from the principal which shall be returned upon final

1 termination of liability on the bond. The collateral security or other
2 indemnity required by the licensee must be reasonable in relation to the
3 amount of the bond."

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5 SECTION 6. Arkansas Code Annotated § 17-19-209 is amended to read as
6 follows:

7 "17-19-209. Violations - Hearings.

8 (a) The board shall investigate any alleged violation of this chapter.

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

12 (c) All hearings held under this chapter shall be conducted in the same
13 manner as hearings held by the board under ~~§ 23-61-301 et seq.~~ the Arkansas
14 Administrative Procedure Act unless otherwise stated in this chapter.

15 (d)(1) With respect to the subject of any examination, investigation,
16 or hearing being conducted by the board, the board may subpoena witnesses and
17 administer oaths and affirmations, and examine any individual under oath, and
18 may require and compel the production of records, books, papers, contracts,
19 and other documents.

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

22 (3) If any individual fails to obey a subpoena issued and served
23 pursuant to this section with respect to any matter concerning which he may be
24 lawfully interrogated, upon application of the board, the circuit court of
25 Pulaski County may issue an order requiring the individual to comply with the
26 subpoena and to testify.

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

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

32 (e) Not less than ten (10) days in advance, the board shall give notice
33 of the time and place of the hearing, stating the matters to be considered at
34 the hearing.

35 (f) The board shall allow any party to the hearing to appear in person
36 and by counsel, to be present during the giving of all evidence, to have a

1 reasonable opportunity to inspect all documentary evidence and to examine
 2 witnesses, to present evidence in support of his interest, and to have
 3 subpoenas issued by the board to compel attendance of witnesses and production
 4 of evidence in his behalf.

5 (g)(1) A party may appeal from any order of the board as a matter of
 6 right and shall be taken to the circuit court of Pulaski County by filing
 7 written notice of appeal to the court and by filing a copy of the notice with
 8 the board.

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

12 (3) Within thirty (30) days after filing of the copy of a notice
 13 of appeal with the board, the board shall make, certify, and deposit in the
 14 office of the clerk of the court in which the appeal is pending a full and
 15 complete transcript of all proceedings had before the board and all evidence
 16 before the board and all evidence before the board in the matter, including
 17 all of the boards files therein.

18 (4) The appeal shall be de novo and additional evidence may be
 19 presented by the parties."

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 21 SECTION 7. Arkansas Code Annotated § 17-19-211 is amended to read as
 22 follows:

23 "17-19-211. Administrative penalty.

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

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 30 SECTION 8. Arkansas Code Annotated § 17-19-212 is amended to read as
 31 follows:

32 "17-19-212. ~~Conditional licenses~~ Licenses.

33 ~~—(a)~~ Each applicant for an initial bail bondsman license who
 34 satisfactorily completes the examination and meets the other qualifications
 35 and requirements prescribed by law ~~for licensure shall be issued a conditional~~
 36 ~~license conditioned so that the licensee shall complete a minimum of eight (8)~~

~~1 clock hours of education in subjects pertaining to the authority and
 2 responsibilities of a bail bondsman, including a review of the laws and
 3 regulations relating thereto, including the completion of a minimum of eight
 4 (8) clock hours of education in subjects pertaining to the authority and
 5 responsibilities of a bail bondsman, and a review of the laws and regulations
 6 relating thereto, shall be licensed by the board.~~

~~7 (b)(1) If the conditional licensee completes the educational
 8 requirement within one hundred eighty (180) days from the date of issuance of
 9 the conditional license, the license becomes a regular annual license.~~

~~10 (2) If the conditional licensee fails to meet the educational
 11 requirement within the time prescribed, the conditional license shall expire."~~

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13 SECTION 9. Arkansas Code Annotated § 17-19-302 is amended to read as
 14 follows:

15 "17-19-302. Collateral - Receipt required.

16 When a licensee accepts collateral, he shall give a prenumbered written
 17 receipt for it, and this receipt shall give in detail a full account of the
 18 collateral received. The licensee may perfect his lien on said collateral by
 19 any procedure available under the Uniform Commercial Code or any other
 20 procedure provided for by law."

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22 SECTION 10. All provisions of this act of a general and permanent
 23 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
 24 Code Revision Commission shall incorporate the same in the Code.

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26 SECTION 11. If any provision of this act or the application thereof to
 27 any person or circumstance is held invalid, such invalidity shall not affect
 28 other provisions or applications of the act which can be given effect without
 29 the invalid provision or application, and to this end the provisions of this
 30 act are declared to be severable.

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32 SECTION 12. All laws and parts of laws in conflict with this act are
 33 hereby repealed.

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APPROVED:3-31-97