

As Engrossed: 3/6/95

1 **State of Arkansas**
2 **80th General Assembly**
3 **Regular Session, 1995**
4 **By: Representative Dietz**

A Bill

ACT 827 OF 1995
HOUSE BILL 1650

For An Act To Be Entitled

8 "AN ACT TO AMEND VARIOUS SECTIONS OF THE BAIL BOND
9 LICENSING LAW TO CHANGE REFERENCES FROM INSURANCE
10 DEPARTMENT AND INSURANCE COMMISSIONER TO THE PROFESSIONAL
11 BAIL BOND COMPANY AND PROFESSIONAL BAIL BONDSMEN LICENSING
12 BOARD; AND FOR OTHER PURPOSES."

Subtitle

15 "TO AMEND VARIOUS SECTIONS OF THE BAIL
16 BOND LICENSING LAW TO CHANGE REFERENCES
17 FROM INSURANCE DEPARTMENT AND INSURANCE
18 COMMISSIONER TO THE PROFESSIONAL BAIL
19 BOND COMPANY AND PROFESSIONAL BAIL
20 BONDSMEN LICENSING BOARD."

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

24 SECTION 1. Arkansas Code 17-17-101(1) is amended to read as follows:

25 "(1) Board means the Professional Bail Bond Company and Professional
26 Bail Bondsmen Licensing Board;".

28 SECTION 2. Arkansas Code 17-17-106(b) is amended to read as follows:

29 "(b) There is hereby created the Professional Bail Bond Company and
30 Professional Bail Bondsman Licensing Board.

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

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

35 (2) (A) Three (3) members of the board shall be licensed bail bond company
36 owners, one (1) a municipal chief of police, one (1) a county sheriff, one (1)

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1 a municipal or circuit judge, and one (1) shall be a resident of the state who
2 is not a bail bond company owner, elected judge, sheriff, or chief of police.

3 (B) No two (2) of the three (3) bail bondsman members shall reside in
4 the same congressional district and at least one (1) of the bail bondsman
5 members shall be an African-American.

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

9 (4) The board shall have the authority to adopt and enforce such
10 reasonable rules and regulations as it shall determine to be necessary to
11 enable it to effectively and efficiently carry out its official duty of
12 licensing and regulating professional bail bond companies and professional
13 bail bondsmen."

14

15 SECTION 3. Arkansas Code 17-17-101(2) is hereby repealed.

16

17 SECTION 4. Arkansas Code §§ 17-17-202 through 210 are amended to read
18 as follows:

19 "17-17-202. Applications.

20 (a) Every applicant for a professional bail bondsman license or a
21 professional bail bond company license, shall apply on forms furnished by the
22 Board.

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

26 (c) An application for a professional bail bond company license shall be
27 accompanied by proof that the applicant is an Arkansas partnership, firm, or
28 corporation, a foreign corporation registered and authorized to conduct
29 business in the State of Arkansas, or an individual who is a resident of the
30 state. A corporation shall file proof that its most recent annual franchise
31 tax has been paid to the Secretary of State.

32 (d) (1) At the time of application for every professional bail bond
33 company license there shall be paid to the Board for the company license a fee
34 of one thousand dollars (\$1,000).

35 (2) Each applicant for a professional bail bondsman license shall pay the

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

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

9 17-17-203. Character references.

10 Each applicant for a professional bail bondsman license shall file with the
11 Board:

12 (1) Written statements from at least three (3) persons who know his
13 character;

14 (2) His fingerprint impressions submitted by a local law enforcement
15 agency to the Arkansas State Police; and

16 (3) Such other proof as the Board may require that he is competent,
17 trustworthy, financially responsible, of good personal and business
18 reputation, and has not been convicted of a felony or any offense involving
19 moral turpitude.

20 17-17-204. Examination.

21 (a) In order to determine the competence of each applicant for a
22 professional bail bondsman license, the Board shall require every individual
23 to submit to, and to pass to the satisfaction of the Board, a written
24 examination to be prepared by the Board and appropriate to the transaction of
25 bail bond business.

26 (b) Such examination shall be held in a location and at such times as the
27 Board shall determine.

28 (c) Every individual applying to take a written examination shall, at the
29 time of applying therefor, pay to the Board a nonrefundable examination fee of
30 twenty-five dollars (\$25.00).

31 (d) If the application is approved, and if the nonrefundable examination
32 fee is paid, an examination permit will be issued to the applicant. The permit
33 will be valid for a period of ninety (90) days from date of issuance. If the
34 applicant does not schedule and appear for examination within that ninety-day
35 period, the permit shall expire and the applicant may be required to file a

1 new application, and shall pay another nonrefundable examination fee of
2 twenty-five dollars (\$25.00) before issuance of another examination permit to
3 the applicant.

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

9 17-17-205. Letter of credit or certificate of deposit required.

10 (a) (1) An applicant for a professional bail bond company license shall
11 file with the Board an irrevocable letter of credit from an Arkansas chartered
12 bank or a federally chartered bank in Arkansas or a certificate of deposit.

13 (2) (A) The letter of credit or certificate of deposit shall be approved
14 by the Board as to form and sufficiency and shall be conditioned upon faithful
15 performance of the duties of the licensee.

16 (B) The minimum amount for any professional bail bond company initially
17 licensed on or before July 1, 1989, shall be twenty-five thousand dollars
18 (\$25,000).

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

21 (D) Professional bail bond companies and professional bail bondsmen
22 who were licensed under Act 400 of 1971 [repealed] prior to March 8, 1989,
23 shall only be required to file or have on file with the Board a letter of
24 credit or certificate of deposit approved by the Board as to form and
25 sufficiency, in a minimum amount of five thousand dollars (\$5,000),
26 conditioned upon the faithful performance of the duties of the licensee,
27 provided they do not exceed the maximum amount of unsecured bond commitments
28 as provided in § 17-17-304.

29 (b) No letter of credit or certificate of deposit shall be subject to
30 termination or cancellation by either party in less than sixty (60) days after
31 the giving of written notice thereof to the other parties and to the Board.

32 (c) No termination or cancellation shall affect the liability of the
33 surety or sureties on a bond incurred prior to the effective date of
34 termination or cancellation.

35 17-17-206. Duties of Board and clerks.

1 (a) Before issuance of a license under the provisions of this chapter,
2 every applicant for a license shall satisfy the Board as to Arkansas
3 residency, trustworthiness and competence, as applicable, and shall otherwise
4 comply with the conditions and qualifications set forth in this chapter.

5 (b)(1) The Board may refuse to issue any license to an applicant who
6 fails to comply with the provisions of this chapter or rule or regulation of
7 the Board.

8 (2) The Board may refuse to issue any such license to any applicant that
9 has made a material misrepresentation in the application for such license.

10 (c) Upon the approval and issuance of any license provided for under this
11 chapter, the Board shall give written notice to the sheriff and circuit clerk
12 of each county in the state.

13 (d) Upon revocation or suspension of license, the Board shall give
14 written notice to that effect to the sheriff and circuit clerk in each county
15 in the state.

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

18 (f) Annually, the Board shall furnish the sheriffs and circuit clerks
19 with a list of renewal licenses.

20 17-17-207. Expiration and renewal.

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

25 (b) The Board may refuse to renew a license for any cause for which
26 issuance of the original license could have been refused or for the licensee's
27 violation of any of the provisions of this chapter or the rules and
28 regulations of the Board.

29 (c) Every licensee shall be required to file a renewal application in the
30 form and subject matter of which shall be prescribed by the Board.

31 (d) At the time of application for renewal of a professional bail bond
32 company license, there shall be paid to the Board for the company's renewal
33 license a fee of one thousand dollars (\$1,000). Each professional bail
34 bondsman shall pay a fee of one hundred dollars (\$100) for renewal of the
35 license except that if the applicant for renewal also holds a professional

1 bail bond company license, then the applicant shall not be required to pay a
2 renewal fee for a professional bail bondsman license.

3 17-17-208. Civil action - Administrative action.

4 (a) (1) If during the term of the letter of credit or certificate of
5 deposit any licensee shall be guilty of misconduct or malfeasance in his
6 dealings with any court or magistrate or officer or with any person or company
7 in connection with any deposit or bail bond, the Board may maintain a civil
8 action on the letter of credit or certificate of deposit, or may maintain an
9 administrative action on any certificate of deposit. The Board may recover for
10 the use and benefit of the person or persons aggrieved, a maximum amount of
11 ten thousand dollars (\$10,000). The provisions of this subdivision shall be in
12 addition to all other remedies available to the aggrieved person and nothing
13 in this subdivision shall be construed as limiting the liability of a
14 professional bail bond company or a professional bail bondsman.

15 (2) The Board may suspend the license of such licensee until such time as
16 the Board recovers the full amount allowable or recovers for the benefit of
17 the persons aggrieved, the amount of loss or injury sustained pursuant to
18 subdivision (a) (1) above, and until such time as the licensee has filed with
19 the Board an additional letter of credit or certificate of deposit in the
20 required amount. The Board shall promptly notify said licensee as provided in
21 subdivision (b) (2) below.

22 (b) (1) When a final civil judgment for court-ordered bond forfeitures is
23 entered as to a bail bond issued by the licensee by a court of competent
24 jurisdiction in this state and the judgment is not paid within ninety (90)
25 days thereafter, the court may send a copy of such judgment, duly certified by
26 the clerk of such court, to the Board and after having given proof to the
27 Board of service of process on the licensee in accordance with present laws
28 governing service of process on defendants in other civil actions. The Board
29 may promptly make a claim on the surety for payment of the allowable amount of
30 such licensee's letters of credit on behalf of said court or shall withdraw
31 the allowable amount of such licensee's certificates of deposit and shall
32 transmit to the clerk of such court so much of said securities as are
33 allowable. The Board shall honor such judgments from the respective courts up
34 to the limits set out in subdivision (a) (1) of this section.

35 (2) Upon receipt of such judgment and proof of notice of service on the

1 licensee, the Board may suspend the license of such licensee until such time
2 as the judgment is paid or otherwise satisfied and until such time as the
3 licensee has filed with the Board another letter of credit or certificate of
4 deposit in the required amount. The Board shall promptly notify the licensee
5 in writing by certified mail of the claims upon the licensee's letter of
6 credit or certificates of deposit and shall also include a copy of the Board's
7 order of suspension.

8 (3) If the allowable amount of the letter of credit or certificate of
9 deposit filed with the Board is not sufficient to pay or otherwise satisfy the
10 judgments as to bail bonds issued by the professional bail bond company in §
11 17-17-205(a), the Board may promptly make a claim against the professional
12 bail bond company on behalf of said court.

13 (c) In the event a professional bail bond company fails to file with the
14 Board the additional letter of credit or certificate of deposit to maintain
15 such license within ninety (90) days from the effective date of the Board's
16 order of suspension as provided in subdivisions (a)(2), (b)(2), or (b)(3)
17 above, the Board shall cancel the license of such licensee and shall promptly
18 notify such licensee as provided in subdivision (b)(2) above.

19 (d) Upon the nonrenewal, cancellation, or revocation of any license
20 hereunder, the Board will release to the licensee the qualifying bonds or
21 certificates of deposit filed with the Board only upon receipt of written
22 documentation from all the courts in all the counties in which the licensee
23 engaged in business that all bonds issued by such licensee have been
24 exonerated, and that no unpaid bond forfeitures remain outstanding, and that
25 all civil judgments as to forfeitures on bonds issued by the licensee have
26 been paid in full.

27 17-17-209. Violations - Hearings.

28 (a) The Board shall investigate any alleged violation of this chapter.

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

32 (c) All hearings held under this chapter shall be conducted in the same
33 manner as hearings held by the Board under § 23-61-301 et seq.

34 17-17-210. Suspension - Review.

35 (a) The Board may suspend for up to twelve (12) months, or revoke or

1 refuse to continue any license issued pursuant to the provisions of this
2 chapter if, after notice and hearing, the Board determines that the licensee
3 or any member of a company which is so licensed has:

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

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

11 (3) Committed any fraudulent or dishonest acts or practices or
12 demonstrated his incompetency or untrustworthiness to act as such licensee;

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

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

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

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

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

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

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

33 (d) If the Board finds that one (1) or more grounds exist for the
34 suspension or revocation of a license and that the license has been suspended
35 within the previous twenty-four (24) months, then the Board shall revoke the

1 license.

2 (e) The Board may not again issue a license under this chapter to any
3 person or entity whose license has been revoked.

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

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

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

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22 SECTION 5. Arkansas Code 17-17-211 is amended to read as follows:

23 "17-17-211. Administrative penalty.

24 If the Board finds that one (1) or more grounds exist for the suspension or
25 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)."

28

29 SECTION 6. Arkansas Code 17-17-301(c) is amended to read as follows:

30 "(c) If a bail bond or appearance bond issued by a licensee under this
31 chapter must be replaced with another bail bond or appearance bond because of
32 the licensee's violation of any provision of the laws of this state or any
33 rule, regulation, or order of the Board, the licensee who violated the
34 provision and who caused the replacement to be required shall pay all the
35 premium amount for the replacement bond, in an amount not to exceed the amount

1 of the original bond, without any contribution from the respective defendant
2 or principal."

3

4 SECTION 7. Arkansas Code §§ 17-17-303 and 304 are amended to read as
5 follows:

6 "17-17-303. Bail bonds - Numbers - Report.

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

8 (b) The Board shall assign numbers for forms to professional bail bond
9 companies and shall prescribe the method of affixing the numbers to the forms.

10 (c) (1) Each professional bail bond company shall file a bail bond report
11 quarterly to the Board.

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

13 (A) The assigned number of the bond and current status of the bond
14 whether pending disposition or exonerated;

15 (B) To whom the bond was written;

16 (C) The date the bail bond was written;

17 (D) The defendant and the charges against the defendant;

18 (E) The court;

19 (F) The amount of the bail bond;

20 (G) The portion of the bail bond that is secured and the unsecured
21 portion.

22 17-17-304. Maximum amount of unsecured bond.

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

25 (1) Not to exceed one hundred thousand dollars (\$100,000) for each
26 twenty-five thousand dollars (\$25,000) of letters of credit or certificates of
27 deposit filed with the Board by the professional bail bond company; and

28 (2) Ten (10) times the net worth of the professional bail bond company as
29 stated on the financial statement filed with the Board at the time of
30 licensing or annual license renewal. Said financial statements must be
31 prepared in accordance with standards established by the American Institute of
32 Certified Public Accountants."

33

34 SECTION 8. All provisions of this act of a general and permanent nature
35 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code

1 Revision Commission shall incorporate the same in the Code.

2

3 SECTION 9. If any provision of this act or the application thereof to
4 any person or circumstance is held invalid, such invalidity shall not affect
5 other provisions or applications of the act which can be given effect without
6 the invalid provision or application, and to this end the provisions of this
7 act are declared to be severable.

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9 SECTION 10. All laws and parts of laws in conflict with this act are
10 hereby repealed.

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12 /s/Rep. Dietz

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14 APPROVED: 3-29-95

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