

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

A Bill

HOUSE BILL 1650

For An Act To Be Entitled

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

Subtitle

"TO AMEND VARIOUS SECTIONS OF THE BAIL
BOND LICENSING LAW TO CHANGE REFERENCES
FROM INSURANCE DEPARTMENT AND INSURANCE
COMMISSIONER TO THE PROFESSIONAL BAIL
BOND COMPANY AND PROFESSIONAL BAIL
BONDSMEN LICENSING BOARD."

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

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

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

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

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

(1)(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.

(2)(A) Three (3) members of the board shall be licensed bail bond

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

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

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

16

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 Arkansas Code 17-17-101(2) is hereby repealed.

18

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

21 "17-17-202. Applications.

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

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

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

34 (d)(1) At the time of application for every professional bail bond
35 company license there shall be paid to the Board for the company license a

1 fee of one thousand dollars (\$1,000).

2 (2) Each applicant for a professional bail bondsman license shall pay
3 the Board a license fee of one hundred dollars (\$100) at the time of
4 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 regardless
10 of the date of issuance.

11 17-17-203. Character references.

12 Each applicant for a professional bail bondsman license shall file with
13 the Board:

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

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

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

22 17-17-204. Examination.

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

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

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

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

1 If the applicant does not schedule and appear for examination within that
2 ninety-day period, the permit shall expire and the applicant may be required
3 to file a new application, and shall pay another nonrefundable examination
4 fee of twenty-five dollars (\$25.00) before issuance of another examination
5 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 may
9 require a waiting period of eight (8) weeks before reexamination of an
10 applicant who twice failed to pass previous similar examinations.

11 17-17-205. Letter of credit or certificate of deposit required.

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

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

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

22 (C) The minimum amount for any professional bail bond company
23 initially licensed after July 1, 1989, shall be one hundred thousand dollars
24 (\$100,000).

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

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

1 (c) No termination or cancellation shall affect the liability of the
2 surety or sureties on a bond incurred prior to the effective date of
3 termination or cancellation.

4 17-17-206. Duties of Board and clerks.

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

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

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

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

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

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

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

24 17-17-207. Expiration and renewal.

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

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

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

35 (d) At the time of application for renewal of a professional bail bond

1 company license, there shall be paid to the Board for the company's renewal
2 license a fee of one thousand dollars (\$1,000). Each professional bail
3 bondsman shall pay a fee of one hundred dollars (\$100) for renewal of the
4 license except that if the applicant for renewal also holds a professional
5 bail bond company license, then the applicant shall not be required to pay a
6 renewal fee for a professional bail bondsman license.

7 17-17-208. Civil action - Administrative action.

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

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

27 (b)(1) When a final civil judgment for court-ordered bond forfeitures is
28 entered as to a bail bond issued by the licensee by a court of competent
29 jurisdiction in this state and the judgment is not paid within ninety (90)
30 days thereafter, the court may send a copy of such judgment, duly certified
31 by the clerk of such court, to the Board and after having given proof to the
32 Board of service of process on the licensee in accordance with present laws
33 governing service of process on defendants in other civil actions. The Board
34 may promptly make a claim on the surety for payment of the allowable amount
35 of such licensee's letters of credit on behalf of said court or shall

1 withdraw the allowable amount of such licensee's certificates of deposit and
2 shall transmit to the clerk of such court so much of said securities as are
3 allowable. The Board shall honor such judgments from the respective courts up
4 to the limits set out in subdivision (a)(1) of this section.

5 (2) Upon receipt of such judgment and proof of notice of service on the
6 licensee, the Board may suspend the license of such licensee until such time
7 as the judgment is paid or otherwise satisfied and until such time as the
8 licensee has filed with the Board another letter of credit or certificate of
9 deposit in the required amount. The Board shall promptly notify the licensee
10 in writing by certified mail of the claims upon the licensee's letter of
11 credit or certificates of deposit and shall also include a copy of the
12 Board's order of suspension.

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

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

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

32 17-17-209. Violations - Hearings.

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

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35 (b) Any person may file a complaint stating facts constituting an

1 alleged violation of this chapter. The complaint shall be signed under
2 penalty of perjury.

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

5 17-17-210. Suspension - Review.

6 (a) The Board may suspend for up to twelve (12) months, or revoke or
7 refuse to continue any license issued pursuant to the provisions of this
8 chapter if, after notice and hearing, the Board determines that the licensee
9 or any member of a company which is so licensed has:

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

13 (2) Made a material misstatement in the application for license, in the
14 application for renewal license, or in the financial statement which
15 accompanies the application or renewal application for license as a
16 professional bail bond company;

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

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

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

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

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

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

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

35 (c) If the Board finds that one (1) or more grounds exist for the

1 suspension or revocation of any license, the Board may in its discretion
2 request that formal charges be filed against the violator and that penalties
3 set out in § 17-17-102 be imposed.

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

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

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

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

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

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

29 "17-17-211. Administrative penalty.

30 If the Board finds that one (1) or more grounds exist for the suspension
31 or revocation of any license, the Board in its discretion, and in lieu of
32 suspension or revocation, may impose upon the licensee an administrative
33 penalty in an amount not to exceed one thousand dollars (\$1,000)."

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

1 "(c) If a bail bond or appearance bond issued by a licensee under this
2 chapter must be replaced with another bail bond or appearance bond because of
3 the licensee's violation of any provision of the laws of this state or any
4 rule, regulation, or order of the Board, the licensee who violated the
5 provision and who caused the replacement to be required shall pay all the
6 premium amount for the replacement bond, in an amount not to exceed the
7 amount of the original bond, without any contribution from the respective
8 defendant or principal."
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10 SECTION 7. Arkansas Code §§ 17-17-303 and 304 are amended to read as
11 follows:

12 "17-17-303. Bail bonds - Numbers - Report.

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

14 (b) The Board shall assign numbers for forms to professional bail bond
15 companies and shall prescribe the method of affixing the numbers to the
16 forms. (c)(1) Each professional bail bond company shall file a bail
17 bond report quarterly to the Board.

18 (2) The report shall include the following information on each bail
19 bond: (A) The assigned number of the bond and current status of the

20 bond whether pending disposition or exonerated;

21 (B) To whom the bond was written;

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

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

24 (E) The court;

25 (F) The amount of the bail bond;

26 (G) The portion of the bail bond that is secured and the unsecured
27 portion.

28 17-17-304. Maximum amount of unsecured bond.

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

31

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

35 (2) Ten (10) times the net worth of the professional bail bond company

1 as stated on the financial statement filed with the Board at the time of
2 licensing or annual license renewal. Said financial statements must be
3 prepared in accordance with standards established by the American Institute
4 of Certified Public Accountants."

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6 SECTION 8. All provisions of this act of a general and permanent
7 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
8 Code Revision Commission shall incorporate the same in the Code.

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10 SECTION 9. If any provision of this act or the application thereof to
11 any person or circumstance is held invalid, such invalidity shall not affect
12 other provisions or applications of the act which can be given effect without
13 the invalid provision or application, and to this end the provisions of this
14 act are declared to be severable.

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

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/s/Rep. Dietz

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