

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 87th General Assembly  
3 Regular Session, 2009  
4 By: Representative Flowers

# A Bill

HOUSE BILL 2231

## For An Act To Be Entitled

AN ACT TO AMEND ARKANSAS LAW CONCERNING LICENSE,  
PERMIT, AND NOTARY PUBLIC BONDS; AND FOR OTHER  
PURPOSES.

## Subtitle

TO AMEND ARKANSAS LAW CONCERNING  
LICENSE, PERMIT, AND NOTARY PUBLIC  
BONDS.

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

SECTION 1. Arkansas Code Title 4 is amended to add an additional  
chapter to read as follows:

4-61-101. License, permit, and notary public bonds.

(a)(1) The obligation of a surety under a license and permit bond contract is solely to the incorporated municipality or any agency or department of the incorporated municipality, requiring the license and permit bond as it pertains to an individual, company, or other entity obtaining an occupational license or permit from the incorporated municipality or any agency or department of the incorporated municipality.

(2) The obligation of a surety under a notary public bond contract is solely to the State of Arkansas as it pertains to the appointment of an individual as a notary public in this state.

(b) A license, permit, or notary public bond does not cover a liability claim due to error, negligence, or criminal act by the bond principal.

(c) A payment shall not be ordered to be made by a surety on a license, permit, or notary public bond to any individual, company, or entity



1 other than the obligee under the bond.

2 (d) The only payment required by a surety under a license, permit, or  
 3 notary public bond is to the obligee on behalf of the principal if the  
 4 principal fails to fulfill the duties, responsibilities, or obligations  
 5 required by the bond.

6 (e)(1) If payment of the amount of the license, permit, or notary  
 7 public bond is made by a surety as a result of a failure by the principal to  
 8 discharge the duties, responsibilities, or obligations as required by the  
 9 bond, the bond is null and void.

10 (2) The surety is not required to make payment under a license,  
 11 permit, or notary public bond for:

12 (A) More than the amount of the bond; or

13 (B) Multiple instances of a failure of the principal to  
 14 discharge the duties, responsibilities, or obligations as required by the  
 15 bond.

16 (f) The recommended standard License and Permit Bond contract form  
 17 shall be as follows:

18 "TO ALL WHOM THESE PRESENTS MAY COME:

19 That [principal's name and address], as principal, and [surety's name],  
 20 as surety, are held and firmly bound unto the [obligee], in the penal sum of  
 21 [amount of bond] for the payment of which well and truly to be made, we do  
 22 hereby jointly and severally bind ourselves, our heirs, executors,  
 23 administrators, personal representatives, successors, and assigns.

24 The conditions of the above obligation are such that, whereas the above  
 25 bounden principal has applied for a license, permit, or certificate to engage  
 26 in the business or occupation of [ ] in [incorporated  
 27 municipality] for the term of which license, permit, or certificate must be  
 28 obtained:

29 NOW, THEREFORE, if the Principal faithfully performs the duties and in  
 30 all things complies with the laws and ordinances, including all amendments  
 31 thereto, appertaining to the license or permit applied for, then this  
 32 obligation is void, otherwise to remain in full force and effect.

33 In consideration of the license, permit, or certificate now or  
 34 hereafter being granted, issued, or renewed, the principal shall:

35 (1) Comply with and faithfully observe and obey all applicable  
 36 rules, regulations, and ordinances of the [incorporated municipality] now and

hereafter existing and all other applicable laws now or hereafter existing affecting or relating to the carrying on of the business or occupation;

(2) Pay any penalties that may be imposed during the period of any present and future permit, license, and certificate; and

(3) In all respects be bound hereby to any and all applicable requirements and provisions required to be in this bond by existing and hereafter existing ordinances, rules, and regulations of the [incorporated municipality], and other laws, the same as though such requirements and provisions were fully set forth in this bond, and by reference such requirements and provisions are made a part hereof.

Noncompliance with one or more of the above enumerated items shall make this bond void. Otherwise, it shall remain in full force and effect within the [incorporated municipality]. This bond is and shall be given effect in the above stated amount for the term of the license, permit, or certificate, now or hereafter issued to the principal, the same as though a separate bond for each present and future license, permit, or certificate term had been executed notwithstanding that this is a continuing bond until cancelled by notice. The surety shall have the right to cancel this bond for future obligation upon sixty (60) days' written notice to the [incorporated municipality].

[signature of principal]

[name of surety]

[signature of attorney-in-fact]"

(g) The recommended standard notary public bond contract form shall be as follows:

"TO ALL WHOM THESE PRESENTS MAY COME:

That [principal's name and address], as principal, and [surety's name], as surety, are held and firmly bound unto the [obligee], in the sum of [amount of bond] for the payment of which well and truly to be made we do hereby jointly and severally bind ourselves, our heirs, executors, administrators, personal representatives, successors, and assigns.

The conditions of the above obligation are such that, whereas the above bounden principal was on the [date] duly and legally appointed notary public in and for the county of [county], State of Arkansas for and during the term of ten (10) years.

NOW, THEREFORE, if the principal shall well and faithfully discharge

the duties of said office that are now or may hereinafter be imposed upon him by law, then this obligation is null and void, but otherwise shall remain in full force and effect.

In consideration of the notary public appointment, the principal shall well and faithfully discharge the duties of the office. Any noncompliance that results in payment of the bond amount shall make this bond void.

[signature of principal]

[name of surety]

[signature of attorney-in-fact]"

SECTION 2. Arkansas Code Title 14, Chapter 1 is amended to add an additional chapter to read as follows:

14-1-401. License and permit bonds.

(a) A license and permit bond to an incorporated municipality or any agency or department of an incorporated municipality may be required to fulfill a requirement the municipality imposes upon a profession, occupation, or business applying to obtain a license or permit from the municipality.

(b) A license and permit bond for not more than five thousand dollars (\$5,000) may be issued by a general business corporation:

(1) Validly organized and existing under the laws of Arkansas pertaining to domestic corporations;

(2) Registered and in good standing with the Secretary of State;

(3) That has previously registered with the Insurance Commissioner on forms prescribed by the commission evidencing its purpose to issue only:

(A) License and permit bonds for the sole purpose of a license or permit to be issued designating a municipal corporation or agency or department of a municipal corporation as obligee; or

(B) Notary public bonds for the sole purpose of an appointment to the office of notary public designating the State of Arkansas as obligee;

(4) That has previously deposited and maintains with the Insurance Commissioner securities in the sum of not less than ten thousand dollars (\$10,000) executed to the State of Arkansas that are:

(A) Issued by a nonaffiliated corporate entity; and

1                   (B) Approved by the Insurance Commissioner; and  
 2                   (5) That is not transacting any other insurance business in this  
 3 state that falls under the Arkansas Insurance Code, § 23-60-101 et seq.  
 4

5           SECTION 3. Arkansas Code § 23-60-102(1), concerning the definition of  
 6 "insurance" under the Arkansas Insurance Code, is amended to read as follows:

7                   (1)(A)(i) "Insurance" is any agreement, contract, or other  
 8 transaction whereby one (1) party, the "insurer", is obligated to confer  
 9 benefit of pecuniary value upon another party, the "insured" or  
 10 "beneficiary", dependent upon the happening of a fortuitous event in which  
 11 the insured or beneficiary has, or is expected to have at the time of such  
 12 happening, a material interest that will be adversely affected by the  
 13 happening of such an event.

14                               (ii) A "fortuitous event" means any occurrence or  
 15 failure to occur that is, or is assumed by the parties to be, to a  
 16 substantial extent beyond the control of either party.

17                   (B) "Insurance" shall, for purposes of subtitle 3 of this  
 18 title, be deemed to include "annuities", which are agreements by insurers to  
 19 make periodic payments that continue during the survival of the measuring  
 20 life or lives under the agreements or for a specified period.

21                   (C) "Reinsurance" is a contract under which an originating  
 22 insurer, called the "ceding" insurer, procures insurance for itself in  
 23 another insurer, called the "assuming" insurer or reinsurer, with respect to  
 24 part or all of an insurance risk of the originating insurer.

25                   (D)(i) "Insurance" shall not include a debt cancellation  
 26 agreement.

27                               (ii) "Debt cancellation agreement" is a loan term or  
 28 contractual arrangement modifying a loan term dealing with motor vehicles  
 29 under which a lender agrees to cancel all or part of a borrower's obligation  
 30 to repay an extension of credit from the lender upon the occurrence of a  
 31 specified event other than the death or disability of the borrower. The  
 32 agreement may be separate from or a part of other loan documents.

33                   (E)(i) "Insurance" shall not include a:

34                               (a) License and permit bond surety contract;

35                               (b) Notary public bond surety contract; or

36                               (c) Surety that is not obligated under any

1 other kind of surety contract other than a license, permit, or notary public  
 2 bond surety contract.

3 (ii) "License and permit bond surety contract" means  
 4 a contract in which the sole obligation of the surety is to an incorporated  
 5 municipality or an agency or department of an incorporated municipality  
 6 requiring the license and permit bond as it pertains to an individual, a  
 7 company, or other entity obtaining an occupation license or permit from the  
 8 incorporated municipality or an agency or department of the incorporated  
 9 municipality.

10 (iii) "Notary public bond surety contract" means a  
 11 contract in which the sole obligation of the surety is to the State of  
 12 Arkansas as it pertains to appointment of an individual as a notary public.

14 SECTION 4. EMERGENCY CLAUSE. It is found and determined by the  
 15 General Assembly of the State of Arkansas that many of the municipal  
 16 corporations and their agencies and departments within the state require  
 17 license permit bonds for various crafts such as plumbers, electricians, and  
 18 contractors and permits such as for the replacement of streets or highways  
 19 when excavation is required for construction or repairs; that competition is  
 20 limited in the bonding industry with most of the premium payments paid to  
 21 foreign corporations; that lack of competition in the field increases the  
 22 cost and the inconvenience to craftspeople and others in the building trades  
 23 and industry; and this act is necessary to increase competition and  
 24 convenience and economic development for the people of this state and should  
 25 be given effect immediately. Therefore, an emergency is declared to exist  
 26 and this act being immediately necessary for the preservation of the public  
 27 peace, health, and safety shall become effective on:

28 (1) The date of its approval by the Governor;

29 (2) If the bill is neither approved nor vetoed by the Governor,  
 30 the expiration of the period of time during which the Governor may veto the  
 31 bill; or

32 (3) If the bill is vetoed by the Governor and the veto is  
 33 overridden, the date the last house overrides the veto.