

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

As Engrossed: H3/19/13

A Bill

HOUSE BILL 1829

5 By: Representative Vines
6

For An Act To Be Entitled

8 AN ACT CONCERNING BAIL BOND FEES; AND FOR OTHER
9 PURPOSES.

Subtitle

12 CONCERNING BAIL BOND FEES.
13
14
15

16 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
17

18 *SECTION 1. Arkansas Code § 17-19-111 is amended to read as follows:*
19 *17-19-111. Fees.*

20 *(a) Notwithstanding any other provisions of this chapter to the*
21 *contrary, and notwithstanding any other provisions of Arkansas law to the*
22 *contrary, a professional bail bond companies company, county sheriff, keeper*
23 *of a jail, or other person authorized to take bond under § 16-84-102 are*
24 *hereby required to charge, collect, and remit the following fees ~~for direct~~*
25 *~~deposit as special revenues into the State Insurance Department Trust Fund~~*
26 *Bail Bondsman Board Fund for the support, personnel, maintenance, and*
27 *operations of the ~~State Insurance Department~~ Professional Bail Bond Company*
28 *and Professional Bail Bondsman Licensing Board and for the Domestic Peace*
29 *Fund administered by the Arkansas Child Abuse/Rape/Domestic Violence*
30 *Commission, in addition to any other fees, taxes, premium taxes, levies, or*
31 *other assessments imposed in connection with the issuance of bail bonds ~~by~~*
32 *~~professional bail bond companies~~ under Arkansas law.*

33 *(b)(1) In addition to the bail or appearance bond premium or*
34 *compensation allowed under § 17-19-301, each licensed professional bail bond*
35 *company, county sheriff, keeper of a jail, or other person authorized to take*
36 *bond under § 16-84-102 shall charge and collect as a nonrefundable fee for*



1 the ~~fund~~ Bail Bondsman Board Fund an additional ten-dollar fee per bail bond
2 for giving bond for each and every bail and appearance bond issued by the
3 licensed professional bail bond company, county sheriff, keeper of a jail, or
4 other person authorized to take bond under § 16-84-102 by or through its
5 individual licensees.

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

9 (3) The notarized quarterly reporting form and a notarized
10 annual reconciliation form as to all fees collected for the ~~fund~~ Bail
11 Bondsman Board Fund shall be filed by each professional bail bond company on
12 forms prescribed by the ~~commissioner~~ board and at the times and in the manner
13 as the ~~commissioner~~ board shall prescribe in conformity with this section.

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

22 (c)(1) The ~~commissioner~~ board may, in ~~his or her~~ its discretion, grant
23 an extension for the filing of the report and fees for good cause shown upon
24 timely written request.

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

29 (3) The ~~commissioner~~ board may pursue any appropriate legal
30 remedies on behalf of the ~~fund~~ Bail Bondsman Board Fund to collect any
31 delinquent fees and penalties owed as special revenues.

32 (d)(1) Upon collection of the fees and any monetary penalties, the
33 ~~commissioner~~ board shall deposit or fund as special revenues:

34 (A) Sufficient fees and penalties directly into the ~~State~~
35 ~~Insurance Department Trust Fund~~ Bail Bondsman Board Fund to provide for the
36 personal services and operating expenses of the ~~Professional Bail Bond~~

1 ~~Company and Professional Bail Bondsman Licensing Board under subsection (g)~~
2 ~~of this section~~ board; and

3 (B) The remainder of all fees and penalties directly into
4 the Domestic Peace Fund administered by the Arkansas Child
5 Abuse/Rape/Domestic Violence Commission.

6 (2) The fees and penalties shall be in addition to all other
7 fees, licensure or registration fees, taxes, assessments, levies, or
8 penalties payable to any federal or state office, court, agency, board, or
9 commission or other public official or officer of the state, or its political
10 subdivisions, including counties, cities, or municipalities, by a
11 professional bail bond ~~companies~~ company, county sheriff, keeper of a jail,
12 or other person authorized to take bond under § 16-84-102.

13 (3)(A) Each individual bail bondsman is required to assist in
14 collection of the fees but is exempt from the duty and responsibility of
15 payment of the fees to the ~~fund~~ Bail Bondsman Board Fund unless he or she
16 misappropriates or converts such moneys to his or her own use or to the use
17 of others not entitled to the fees.

18 (B) In that case, the ~~commissioner~~ board shall proceed on
19 behalf of the ~~fund~~ Bail Bondsman Board Fund with any civil or criminal
20 remedies at ~~his or her~~ its disposal against the individual responsible.

21 (C) Upon criminal conviction of the individual responsible
22 for fraudulent conversion of the moneys due the ~~fund~~ Bail Bondsman Board
23 Fund, the individual responsible shall pay restitution to the ~~trust fund~~ Bail
24 Bondsman Board Fund, and the court shall incorporate a finding to that effect
25 in its order.

26 (D) Absent substantial evidence to the contrary, the
27 violations of the individual may be attributed to the employing bail bond
28 company, and any criminal or civil court may, in its discretion and upon
29 substantial evidence, order the employing bail bond company to pay
30 restitution to the ~~fund~~ Bail Bondsman Board Fund on behalf of the responsible
31 individual and shall incorporate that finding into its order.

32 (e) For purposes of any statutory security deposit Arkansas law
33 requires of professional bail bond companies, including, but not limited to,
34 the deposit under § 17-19-205, the payment of the fees required by this
35 section is considered to be a duty of the licensee, so as to allow the
36 ~~commissioner~~ board on behalf of the ~~fund~~ Bail Bondsman Board Fund to make a

1 claim against any such deposit for the fees required by this section and any
2 penalties owed thereon, up to the limit of any security deposit.

3 (f) Under no circumstances shall the fees or penalties thereon held in
4 or for deposit into the ~~fund~~ Bail Bondsman Board Fund as special revenues be
5 subject to any tax, levy, or assessment of any kind, including, but not
6 limited to, any bond forfeiture claims, any garnishment or general creditors'
7 claims, any remedies under Title 16 of this Code, or other provisions of
8 Arkansas law.

9 ~~(g)(1) At the beginning of each fiscal year, the department shall~~
10 ~~certify to the Chief Fiscal Officer of the State an amount sufficient to~~
11 ~~provide for personal services and operating expenses of the Professional Bail~~
12 ~~Bond Company and Professional Bail Bondsman Licensing Board.~~

13 ~~(2) The Chief Fiscal Officer of the State shall then transfer~~
14 ~~the certified amount from the State Insurance Department Trust Fund to the~~
15 ~~Bail Bondsman Board Fund.~~

16
17 SECTION 2. Arkansas Code § 17-19-301 is amended to read as follows:
18 17-19-301. Premiums.

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

23 (b) The minimum compensation for giving bond or depositing money or
24 property as bail on any bond shall be not less than fifty dollars (\$50.00).

25 (c) If a bail bond or appearance bond issued by a licensee under this
26 chapter must be replaced with another bail bond or appearance bond because of
27 the licensee's violation of any provision of the laws of this state or any
28 rule, ~~regulation~~, or order of the Professional Bail Bond Company and
29 Professional Bail Bondsman Licensing Board, the licensee who violated the
30 provision and who caused the replacement to be required shall pay all the
31 premium amount for the replacement bond, in an amount not to exceed the
32 amount of the original bond, without any contribution from the respective
33 defendant or principal.

34 (d)(1)(A) In addition to the ten percent (10%) bail or appearance bond
35 premium or compensation allowed in subsection (a) of this section, and
36 commencing on ~~April 1, 1993~~ the effective date of this act, each licensed

1 professional bail bond company, county sheriff, keeper of a jail, or other
2 person authorized to take bond under § 16-84-102 shall charge and collect as
3 a nonrefundable administrative and regulatory fee for the ~~State Insurance~~
4 ~~Department Trust Fund~~ board an additional ten dollars (\$10.00) per bond fee
5 for giving bond for every bail and appearance bond issued by the licensed
6 professional bail bond company, county sheriff, keeper of a jail, or other
7 person authorized to take bond under § 16-84-102 by or through its individual
8 licensees.

9 (B) The administrative and regulatory fees payable by
10 these ~~companies~~ entities to the ~~fund~~ Bail Bondsman Board Fund for the support
11 and operation of the ~~department~~ board, and collected by the bail bond
12 companies as required by this section, shall be reported and filed with the
13 ~~Insurance Commissioner~~ board no later than fifteen (15) calendar days after
14 the end of each calendar quarter, contemporaneous with the professional bail
15 bond company's filing of its quarterly bail bond report with the ~~department~~
16 board.

17 (C) A notarized annual reconciliation of all such fees
18 collected in the preceding calendar year for the ~~fund~~ Bail Bondsman Board
19 Fund shall be filed by each licensed professional bail bond company, county
20 sheriff, keeper of a jail, or other person authorized to take bond under §
21 16-84-102 at a time and on forms prescribed by the ~~commissioner~~ board.

22 (D) The ~~commissioner~~ board may in ~~his or her~~ its
23 discretion grant an extension for good cause shown upon timely written
24 request.

25 (E) In no event shall the administrative and regulatory
26 fees payable by the bail bond companies to the ~~fund~~ Bail Bondsman Board Fund
27 exceed ten dollars (\$10.00) per bond, as required by this subchapter,
28 exclusive of statutory licensure fees elsewhere in this chapter.

29 (2)(A) Absent an extension the ~~commissioner~~ board granted for
30 good cause to a company and in addition to any license suspension or
31 revocation, the ~~commissioner~~ board may in ~~his or her~~ its discretion order
32 after notice and a hearing a professional bail bond company failing timely to
33 report or pay the regulatory fee to the ~~fund~~ Bail Bondsman Board Fund by and
34 through the ~~commissioner~~ board shall be liable to the ~~fund~~ Bail Bondsman
35 Board Fund for a monetary penalty of one hundred dollars (\$100) per day for
36 each day of delinquency.

1 (B) The ~~commissioner~~ board may pursue any appropriate
2 legal remedies on behalf of the ~~fund~~ Bail Bondsman Board Fund to collect any
3 delinquent fees and penalties owed pursuant to this section as special
4 revenues to the ~~fund~~ Bail Bondsman Board Fund.

5 (3) Upon collection of the regulatory fees and any monetary
6 penalties payable to the ~~fund~~ Bail Bondsman Board Fund and assessed under
7 this section, the ~~commissioner~~ board shall deposit all fees and penalties
8 directly into the ~~fund~~ Bail Bondsman Board Fund as special revenues.

9 (4)(A) Upon failure of the bail bond company to remit the fees
10 timely, the ~~commissioner~~ board may pursue civil legal remedies against the
11 noncomplying bail bond company on behalf of the ~~fund~~ Bail Bondsman Board Fund
12 to recover the balance of the fees and any penalties owed.

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

16 (5)(A) Other than sole proprietors licensed as professional bail
17 bond companies, individual bail bondsmen are exempt from the duty and
18 responsibility of payment of the administrative and regulatory fees to the
19 ~~fund~~ Bail Bondsman Board Fund, except that the individual licenses of such
20 individual employees of the professional bail bond company may be suspended
21 or revoked by the ~~commissioner pursuant to~~ board under the administrative
22 procedures provided in this chapter if the individual licensee fails to
23 comply with his or her duties in proper collection of the bail bond premiums
24 earmarked for later payment to the ~~fund pursuant to~~ Bail Bondsman Board Fund
25 under this subsection, if he or she converts such moneys to his or her own
26 use, or commits other infractions in regard to collection of such premium
27 amounts.

28 (B) In those instances, the violations of the individual
29 may in the ~~commissioner's~~ board's discretion be attributed to the employing
30 professional bail bond company for good cause shown, and its license may be
31 sanctioned by the ~~commissioner pursuant to~~ board under the administrative
32 procedures provided in this chapter.

33 (C) Further, upon criminal conviction of the individual
34 bondsman for theft of property in connection with fraudulent conversion of
35 those premium amounts due the ~~fund~~ Bail Bondsman Board Fund, the board shall
36 revoke the individual's license, and in its discretion, fine or suspend or

1 *revoke the license of, the employing professional bail bond company if it*
2 *assisted the individual in such fraudulent conduct.*

3 *(6)(A) For purposes of § 17-19-205 requiring the professional*
4 *bail bond company's deposit of a letter of credit or certificate of deposit*
5 *for the faithful performance of its duties, the company's payment of the*
6 *administrative and regulatory fee as required by this subsection shall be*
7 *considered to be and shall be a duty of the licensee so as to allow the*
8 *~~commissioner~~ board to make a claim against the security deposit required in §*
9 *17-19-205 on behalf of the ~~fund~~ Bail Bondsman Board Fund for the balance of*
10 *any owed and unpaid administrative and regulatory fees the professional bail*
11 *bond company still owes to the ~~fund~~ Bail Bondsman Board Fund, and the*
12 *~~commissioner~~ board shall promptly proceed to make claims against such*
13 *security deposits on behalf of the ~~fund~~ Bail Bondsman Board Fund, up to the*
14 *limit of the company's deposit for any remaining fee balance due, in the*
15 *manner provided in this subchapter for any claim against the deposit required*
16 *herein.*

17 *(B) Under no circumstances shall such deposits held for*
18 *the ~~fund~~ Bail Bondsman Board Fund, or fees or any moneys deposited into the*
19 *~~fund~~ Bail Bondsman Board Fund, be subject to any levy or assessment of any*
20 *kind, including forfeiture claims, misconduct claims, or general creditor*
21 *claims of the bail bond company, subject to garnishment or other creditors'*
22 *remedies under Title 16 of this Code or other provisions of Arkansas law.*

23 *(e)(1) In addition to the premiums, compensation, and fees allowed in*
24 *subsections (a) and (d) of this section, each licensed professional bail bond*
25 *company, county sheriff, keeper of a jail, or other person authorized to take*
26 *bond under § 16-84-102 shall charge and collect twenty dollars (\$20.00) as a*
27 *nonrefundable fee for the Arkansas Public Defender Commission.*

28 *(2) All fees collected ~~shall be forwarded to the commission for~~*
29 *~~deposit into the Public Defender User Fee Fund~~ shall be paid to the board*
30 *with appropriate fees forwarded to the commission in a timely manner for*
31 *disbursement as required by law.*

32 *(3)(A) The commission shall deposit the money collected into the*
33 *existing account within the State Central Services Fund entitled "Public*
34 *Defender User Fees Fund".*

35 *(B)(i) Three dollars (\$3.00) of each fee collected under*
36 *this section shall be remitted to each county in the state to defray the*

1 operating expenses of each county's public defender office.

2 (ii) The commission shall remit quarterly to each
3 county treasurer the county's portion of the fee collected under this section
4 using the formula for the County Aid Fund under § 19-5-602.

5 (4) The fees collected by the bail bond companies required under
6 this subsection shall be reported and filed with the ~~commission~~ board
7 quarterly.

8 (5) A notarized annual reconciliation of all fees collected in
9 the preceding calendar year shall be filed by each licensed professional bail
10 bond company, county sheriff, keeper of a jail, or other person authorized to
11 take bond under § 16-84-102 by February 15 on forms provided by the
12 commission.

13 (6) In addition to the bail or appearance bond premium or
14 compensation allowed under this section and § 17-19-111, each licensed
15 professional bail bond company shall charge and collect a processing fee of
16 five dollars (\$5.00) on each bail bond in order to defray the surety's costs
17 incurred by the quarterly and annual reports to the ~~commission~~ board and to
18 further defray the surety's costs incurred in the collection of all fees due
19 owing and collected on behalf of the commission.

20 (7) The ~~commission~~ board may pursue any appropriate legal remedy
21 for the collection of any delinquent fees owed under this subsection.

22 ~~(8) Upon collection of any fees and penalties, the commission~~
23 ~~shall deposit all fees and penalties directly into the Public Defender User~~
24 ~~Fees Fund account within the State Central Services Fund.~~

25
26 SECTION 3. Arkansas Code § 19-5-1088 is amended to read as follows:

27 19-5-1088. Bail Bondsman Board Fund.

28 (a) There is ~~hereby~~ established on the books of the Treasurer of
29 State, the Auditor of State, and the Chief Fiscal Officer of the State a fund
30 to be known as the "Bail Bondsman Board Fund".

31 (b) ~~This~~ The fund shall consist of those moneys ~~transferred from the~~
32 ~~State Insurance Department Trust Fund~~ collected under §§ 17-19-111 and 17-19-
33 301 and other moneys from the collection of fees.

34 (c) ~~there to~~ The fund shall be used exclusively for the operation of
35 the Professional Bail Bond Company and Professional Bail Bondsman Licensing
36 Board.

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/s/Vines