

NORTH CAROLINA GENERAL ASSEMBLY

LEGISLATIVE FISCAL NOTE

BILL NUMBER: House Bill 1608

SHORT TITLE: Amend Bail Bondsmen and Runners Law

SPONSOR(S): Representative Culpepper

FISCAL IMPACT

Yes () No (X) No Estimate Available ()

FY 2000-01 FY 2001-02 FY 2002-03 FY 2003-04 FY 2004-05

REVENUES

EXPENDITURES

NO FISCAL IMPACT

POSITIONS:

PRINCIPAL DEPARTMENT(S) &

PROGRAM(S) AFFECTED: Department of Insurance, Judicial Branch, Department of Correction

EFFECTIVE DATE: October 1, 2000

BILL SUMMARY: Sections 1 and 2 amend GS 58-71-1 to create a “first year license” to be granted to a person who has been licensed as bail bondsman or runner and who has held license for less than 12 months and a “supervising bail bondsman” to be a person licensed as a professional bondsman or surety bondsman who employs or contracts with a new licensee. Section 4 adds GS 58-71-41 with details of oversight of first-year licensee and limitations on their work. If employment of or contract with first-year licensee is terminated, supervising bail bondsman must notify Commissioner of Insurance in writing with reasons for termination. Section 5 adds new GS 58-71-80(c) to provide that if first-year licensee’s employment or contract is terminated before end of 12-month supervisory period, the Insurance Commissioner determines whether sufficient cause exists to suspend, revoke, or refuse to renew a license or to warrant criminal action. Section 7 requires receipts for collateral security and dictates how funds shall be handled. Section 8 adds new GS 58-71-121 to provide for disposition of outstanding bail bond obligations on death or terminal illness of bail bondsman. Section 9 amends GS 58-71-145 to increase from \$5,000 to \$15,000 the minimum securities deposit required of professional bondsman. Section 3 amends GS 58-71-40(a) to make it Class I felony to be act as a bail bondsman or runner without license (prior language prohibited but did not specify penalty).

Section 6 amends GS 58-71-95(5) to provide that a bail bondsman who knowingly and willfully fails to return any collateral security whose value exceeds \$1,500 is guilty of Class I felony. Section 10 specifies that violation of any provision of the revised article is a Class 1 misdemeanor.

ASSUMPTIONS AND METHODOLOGY:

Department of Insurance

Section 4 requires the address of a supervising bail bondsman to be on file with the Department of Insurance and it requires the supervising bail bondsman to give notice to the Department of Insurance when a first year licensee has completed 12 months of supervised employment. This section also limits the jurisdiction within which a first year licensee may write a bond. Section 5 allows the Commissioner of Insurance to consider whether sufficient cause exists to suspend, revoke or refuse renewal of the first-year license or whether to pursue administrative action or criminal proceedings, if employment is terminated prior to 12 months.

The Special Services Division within the Department of Insurance is responsible for the licensing and regulation of the bail bond industry. The Department of Insurance estimates that this division will need two additional staff persons at a cost of \$75,589 recurring and \$13,700 nonrecurring to fulfill the additional responsibilities imposed by this bill. These positions would be an investigator at a cost of \$46,771 recurring and \$8,700 nonrecurring and a support position at a cost of \$28,818 recurring and \$5,000 nonrecurring. The investigator would be responsible for background and criminal investigations. The support person would be responsible for processing new applications, monitoring pre-licensing requirements, maintaining files and assisting with inquiries. The Department also estimates that it will need approximately \$300,000 to update its database to track licensees, cross-reference licensees and retrieve agent history.

The Fiscal Research Division does not concur with the Department's estimate. We believe that the additional responsibilities - tracking the first year supervisory license and monitoring the jurisdiction limit of first year licensees - will not significantly impact the Department's workload. Further, while we believe that the Special Services Division **may** need additional personnel and an updated database, we do not believe that these needs are necessitated by the additional responsibilities of the bill. Rather, these additional needs appear to be related to the burden that the existing workload places on the current personnel. The additional responsibilities of this bill alone are not considered to be substantial enough to justify additional personnel.

Criminal Penalties

Department of Correction

SB 1253 changes the offense of acting as a bail bondsmen/runner without the appropriate license from a Class 1 misdemeanor to a Class I felony. The Judicial Branch does not have any records of convictions for this offense in the past. However, the Department of Insurance Special Services Division reports an average of 6.25 cases per year where there was criminal conviction or restitution resulting from criminal investigations by the Division for unlicensed bail bond activity. If there were 6 convictions per year as a Class I felony, there would not likely be any active sentences and no impact on the Department of Correction is predicted. (based on percentage of active sentences ordered for all Class I felonies in 1998-9)

SB 1253 also makes failure to return collateral security a Class I felony. The Department of Insurance reports an average of 1.75 such cases per year. SB 1253 specifies that other violations of the Bill's requirements shall be Class 1 Misdemeanors. Because of the small number of such incidents, no impact is predicted.

Judicial Branch

In general, changing a penalty from misdemeanor to felony can have an impact on the Court System because felony cases are tried in Superior Court and the exposure to enhanced punishment would lead to increased time by defense counsel, the prosecution, and the court. However, because new and enhanced criminal cases under this bill would be relatively infrequent, The Fiscal Research Division believes that the Judicial Branch can absorb any impact from this individual bill within existing resources. This fiscal note measures the impact on the court system from this individual bill standing alone. While the impact on the courts from this individual bill is not substantial, it is AOC's position that the court system cannot absorb the cumulative impact from all such bills likely to be passed in a given session.

TECHNICAL CONSIDERATIONS: None

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