

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 2015

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HOUSE BILL 641

Short Title: Amend Bail Bondsmen Statutes. (Public)

Sponsors: Representatives Reives and Saine (Primary Sponsors).
For a complete list of Sponsors, refer to the North Carolina General Assembly Web Site.

Referred to: Judiciary II.

April 14, 2015

A BILL TO BE ENTITLED

AN ACT TO REVISE THE STATUTES GOVERNING BAIL BONDSMEN BY CLARIFYING CERTAIN DEFINITIONS, BY CLARIFYING THE STATUTES GOVERNING RETURN OF PREMIUM, ARREST ORDERS, AND APPOINTMENT OF SURETY BONDSMEN, BY BROADENING THE ENTITIES WHO MAY PROVIDE CONTINUING EDUCATION, AND BY MAKING VARIOUS OTHER CHANGES TO THE BAIL BONDSMEN LAWS.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-71-1 reads as rewritten:

§ 58-71-1. Definitions.

The following definitions apply in this Article:

...

(1a) Address. - Any dwelling, home, building, lodging, or "address of record" as defined in G.S. 15A-531(2)(a) where a principal may occupy or take up residence.

(1b) Approved provider. - Either of the following types of entities:

- a. An entity otherwise qualified to provide continuing education and which has offered such instruction for a period of three years or more and to at least 500 students.
b. An entity otherwise qualified to provide prelicensing instruction which has provided such instruction for a period of three years or more and to at least 200 students.

...

(3a) Cash deposit. - The posting of coin, currency, or valid appearance bond by an accommodation bondsman, an insurer, a professional bondsman, or runner in order to effect pretrial release for a defendant for which a release order indicates a cash deposit or United States currency.

...

(6a) Personal identification. - Date of birth, Social Security number, drivers license number, alien registration number, or any other similar means of distinguishing between individuals.

...."

SECTION 2. G.S. 58-71-20 reads as rewritten:

§ 58-71-20. Surrender of defendant by surety; when premium need not be returned.



1 At any time before there has been a breach of the undertaking in any type of bail or fine and  
2 cash bond the surety may surrender the defendant to the sheriff of the county in which the  
3 defendant is bonded to appear or to the sheriff where the defendant was bonded; in such case  
4 the full premium shall be returned within 72 hours after the surrender. The defendant may be  
5 surrendered without the return of premium for the bond if any indemnitor on the defendant's  
6 bond presents a notarized request to the surety or surety's agent to terminate the bond and the  
7 indemnitor's liability, or if the defendant does any of the following:

- 8 (1) Willfully fails to pay the premium to the surety or willfully fails to make a  
9 premium payment under the agreement specified in G.S. 58-71-167.
- 10 (2) Changes his or her address without notifying the surety before the address  
11 change.
- 12 (3) Physically hides from the surety.
- 13 (4) Leaves the State without the permission of the surety.
- 14 (5) Violates any order of the court.
- 15 (6) Fails to disclose information or provides false information regarding any  
16 failure to appear in court, any previous felony convictions within the past 10  
17 years, or any charges pending in any State or federal court.
- 18 (7) Knowingly provides the surety with incorrect personal identification, or uses  
19 a false name or alias."

20 **SECTION 3.** G.S. 58-71-20 reads as rewritten:

21 **"§ 58-71-30. Arrest of defendant for purpose of surrender.**

22 For the purpose of surrendering the defendant, the surety may arrest him before the  
23 forfeiture of the undertaking, or by his written authority endorsed on a certified copy of the  
24 undertaking, may request any judicial officer to order arrest of the defendant. Upon receipt of  
25 the request by surety or the surety's agent and the certified copy of the undertaking, the judicial  
26 officer shall order arrest of the defendant."

27 **SECTION 4.** G.S. 58-71-71 reads as rewritten:

28 **"§ 58-71-71. Examination; educational requirements; penalties.**

29 (a) In order to be eligible to take the examination required to be licensed as a runner or  
30 bail bondsman under G.S. 58-71-70, each person shall complete at least 12 hours of education  
31 as provided by ~~the North Carolina Bail Agents Association~~ an approved provider in subjects  
32 pertinent to the duties and responsibilities of a runner or bail bondsman, including all laws and  
33 regulations related to being a runner or bail bondsman.

34 (b) Each year every licensee shall complete at least three hours of continuing education  
35 as provided by ~~the North Carolina Bail Agents Association~~ an approved provider in subjects  
36 related to the duties and responsibilities of a runner or bail bondsman before renewal of the  
37 license. This continuing education shall not include a written or oral examination. A person  
38 who receives his first license on or after January 1 of any year does not have to comply with  
39 this subsection until the period between his first and second license renewals.

40 ...

41 (d) Educational courses offered by ~~the North Carolina Bail Agents Association~~ approved  
42 providers under this section must be approved by the Commissioner before they may be  
43 offered. Before approving a course, the Commissioner must be satisfied that the course will  
44 enhance the professional competence and professional responsibility of bail bondsmen and  
45 runners. ~~The North Carolina Bail Agents Association~~ Approved providers shall not offer,  
46 sponsor, or conduct any course under this section unless the Commissioner has given  
47 authorization to do so.

48 ...."

49 **SECTION 5.** G.S. 58-71-141 reads as rewritten:

50 **"§ 58-71-141. Appointment of bail bondsmen; affidavit required.**

1 (a) Before receiving an appointment, a surety bondsman shall submit to the  
2 Commissioner an affidavit, signed under oath, by the surety bondsman and by any former  
3 insurer, stating that the surety bondsman does not owe any premium or unsatisfied judgment to  
4 any insurer and that the bondsman agrees to discharge all outstanding forfeitures and judgments  
5 on bonds previously written. The affidavit shall be in a form prescribed by the Commissioner  
6 and shall be submitted by the surety bondsman to the former insurer. If the surety bondsman  
7 does not satisfy or discharge all forfeitures or judgments, the former insurer shall submit a  
8 notice, with supporting documents, to the appointing insurer, the surety bondsman, and the  
9 Commissioner, which states, under oath, that the surety bondsman has failed to satisfy, in a  
10 timely manner, the forfeitures and judgments on bonds written by the surety bondsman and that  
11 the former insurer has satisfied the forfeiture or judgment from its own funds. If the surety  
12 bondsman does not owe any premium or unsatisfied judgments, a former insurer must release  
13 the bondsman by certifying that status to the Commissioner via e-mail, fax, or mail and  
14 providing a corresponding notice of release to the bondsman within three days of receipt of the  
15 surety bondsman's affidavit. ~~The~~ ~~Otherwise, the~~ former insurer shall submit the notice and  
16 supporting ~~documents~~ documents, including evidence of owed premium or unsatisfied  
17 judgments, to the appointing insurer, the surety bondsman, and the Commissioner within ~~30~~ 10  
18 days after the former insurer receives the affidavit from the surety bondsman. Upon receipt of  
19 the notice and supporting documents, the appointing insurer shall immediately cancel the surety  
20 bondsman's appointment. The surety bondsman may be reappointed only upon certification by  
21 the former insurer that all forfeitures and judgments on bonds written by the surety bondsman  
22 have been discharged. The appointing insurer or surety bondsman may, within 10 days after  
23 receiving the notice and supporting documents from the former insurer, appeal to the  
24 Commissioner. For the purposes of this section, owed premium and unsatisfied judgments only  
25 pertain to insurers and not general agents, managing general agents, or supervising agents.

26 ...."

27 **SECTION 6.** G.S. 15A-531(4) reads as rewritten:

28 "(4) "Bail bond" means an undertaking by the defendant to appear in court as  
29 required upon penalty of forfeiting bail to the State in a stated amount. Bail  
30 bonds include an unsecured appearance bond, an appearance bond secured  
31 by a cash deposit of the full amount of the bond, an appearance bond secured  
32 by a mortgage under G.S. 58-74-5, and an appearance bond secured by at  
33 least one solvent surety. A bail bond signed by any surety, as defined in  
34 G.S. 15A-531(8)a. and b., is considered the same as a cash deposit or United  
35 States currency for all purposes in this Article. Cash bonds set in child  
36 support contempt proceedings shall not be satisfied in any manner other than  
37 the deposit of cash."

38 **SECTION 7.** This act becomes effective October 1, 2015.