

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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HOUSE BILL 1608\*

Short Title: Amend Bail Bondsmen and Runners Law.

(Public)

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Sponsors: Representatives Culpepper; and Morris.

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Referred to: Judiciary IV.

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May 18, 2000

A BILL TO BE ENTITLED

1  
2 AN ACT TO REQUIRE SUPERVISION OF FIRST-YEAR BAIL BONDSMEN AND  
3 RUNNERS; TO MAKE IT A CLASS I FELONY FOR A PERSON TO ACT AS A  
4 RUNNER OR BAIL BONDSMAN WITHOUT OBTAINING AND MAINTAINING  
5 THE REQUIRED LICENSE OR FOR A BONDSMAN TO KNOWINGLY AND  
6 WILLFULLY FAIL TO RETURN ANY COLLATERAL SECURITY VALUED AT  
7 MORE THAN ONE THOUSAND FIVE HUNDRED DOLLARS; TO REQUIRE  
8 THAT COLLATERAL SECURITY IN THE FORM OF CASH OR NEGOTIABLE  
9 INSTRUMENTS BE HELD IN TRUST ACCOUNTS; TO PROVIDE FOR THE  
10 DISPOSITION OF OUTSTANDING BAIL BOND OBLIGATIONS UPON THE  
11 DEATH OR TERMINAL ILLNESS OF A BAIL BONDSMAN; AND TO  
12 INCREASE THE MINIMUM SECURITIES DEPOSIT REQUIRED OF  
13 PROFESSIONAL BONDSMEN.

14 The General Assembly of North Carolina enacts:

15 Section 1. G. S. 58-71-1 is amended by adding a new subdivision to read:

16 "(4a) 'First-year licensee' means any person who has been licensed as a bail  
17 bondsman or runner under this Article and who has held the license for  
18 a period of less than 12 months."

19 Section 2. G. S. 58-71-1 is amended by adding a new subdivision to read:

1           "(9a) 'Supervising bail bondsman' means any person licensed by the  
2           Commissioner as a professional bondsman or surety bondsman who  
3           employs or contracts with any new licensee under this Article."

4           Section 3. G.S. 58-71-40(a) reads as rewritten:

5           "~~(a) No~~ It is a Class I felony for any person shall to act in the capacity of a bail bondsman  
6           or runner or perform any of the functions, duties, or powers prescribed for bail bondsmen  
7           or runners under the provisions of this Article unless that person shall be qualified and (except  
8           as regards an accommodation bondsman) licensed in accordance with the provisions of without  
9           obtaining and maintaining a license under this Article. No license shall be issued to a  
10           professional bondsman or runner except to an individual natural person."

11           Section 4. Article 71 of Chapter 58 of the General Statutes is amended by  
12           adding a new section to read:

13           "**§ 58-71-41. First-year licensees; limitations.**

14           (a) Except as provided in this section, a first-year licensee shall have the same  
15           authority as other persons licensed as a bail bondsman or runner under this Article. A  
16           first-year licensee shall operate only under the supervision of and from the business  
17           address of a licensed supervising bail bondsman, which address shall be on file with the  
18           Department. A first-year licensee may only be employed by or contract with one  
19           supervising bail bondsman and shall be limited to writing bail bonds within the judicial  
20           district or bordering judicial districts where the supervising bail bondsman maintains a  
21           place of business.

22           (b) When a first-year licensee has completed 12 uninterrupted months of  
23           supervision, the supervising bail bondsman shall give notice of that fact to the  
24           Commissioner in writing. If the licensee will continue to be employed by or contract  
25           with the supervising bail bondsman beyond the initial 12-month period, the supervising  
26           bail bondsman shall continue to supervise and be responsible for the licensee's acts.

27           (c) If the employment of or contract with a first-year licensee is terminated, the  
28           supervising bail bondsman shall notify the Commissioner in writing and shall specify the  
29           reason for the termination.

30           (d) Provided all other licensing requirements are met, an applicant for a bail  
31           bondsman or runner's license who has previously been licensed with the Commissioner  
32           for a period of at least three consecutive years and who has been inactive or unlicensed  
33           for a period of not more than three consecutive years shall not be deemed a new licensee  
34           for purposes of this section."

35           Section 5. G.S. 58-71-80 is amended by adding a new subsection to read:

36           "(c) In the case of a first-year licensee whose employment or contract is terminated  
37           prior to the end of the 12-month supervisory period, the Commissioner may consider all  
38           information provided in writing by the supervising bail bondsman in determining whether  
39           sufficient cause exists to suspend, revoke, or refuse to renew the license or to warrant  
40           criminal prosecution of the first-year licensee. If the Commissioner determines there is  
41           not sufficient cause for adverse administrative action or criminal prosecution, the  
42           termination shall not be deemed an interruption and the period of time the licensee was  
43           employed by or contracted with the terminating supervising bail bondsman will be

1 credited toward the licensee's completion of the required 12 months of supervision with a  
2 subsequent supervising bail bondsman."

3 Section 6. G.S. 58-71-95(5) reads as rewritten:

4 "(5) Accept anything of value from a principal or from anyone on behalf of a  
5 principal except the premium, which shall not exceed fifteen percent  
6 (15%) of the face amount of the bond; provided that the bondsman shall  
7 be permitted to accept collateral security or other indemnity from a  
8 principal or from anyone on behalf of a principal. Such collateral  
9 security or other indemnity required by the bondsman must be  
10 reasonable in relation to the amount of the bond and shall be returned  
11 within 72 hours after final termination of liability on the bond. Any bail  
12 bondsman who knowingly and willfully fails to return any collateral  
13 security, the value of which exceeds one thousand five hundred dollars  
14 (\$1,500), is guilty of a Class I felony. All collateral security, such as  
15 personal and real property, subject to be returned must be done so under  
16 the same conditions as requested and received by the bail bondsman."

17 Section 7. G.S. 58-71-100 reads as rewritten:

18 "**§ 58-71-100. Receipts for ~~collateral~~-collateral; trust accounts.**

19 When a bail bondsman accepts collateral he shall give a written receipt for ~~same~~, ~~the~~  
20 ~~collateral.~~ ~~and this~~ The receipt shall give in detail a full description of the collateral  
21 received. Collateral security shall be held and maintained in trust. When collateral  
22 security is received in the form of cash or check or other negotiable instrument, the  
23 licensee shall deposit the cash or instrument within two banking days after receipt, in an  
24 established, separate noninterest-bearing trust account in any bank located in North  
25 Carolina. The trust account funds shall not be commingled with other operating funds."

26 Section 8. Article 71 of Chapter 58 of the General Statutes is amended by  
27 adding a new section to read:

28 "**§ 58-71-121. Death or terminal illness of a bail bondsman.**

29 In the case of death or terminal illness of a licensed bail bondsman, the spouse or  
30 surviving spouse, next of kin, person or persons holding a power of attorney, or executor  
31 or administrator of the licensed bail bondsman may contract with another licensed bail  
32 bondsman to perform those duties to have the licensee's outstanding bail bond obligations  
33 resolved to the satisfaction of the courts. The terms and conditions of the contract must  
34 be mutually agreed upon by the parties. The contract must be filed with the  
35 Commissioner and every clerk of superior court where it can be determined the licensee  
36 has pending outstanding bail bond obligations. The licensed bail bondsman who has  
37 agreed to perform these duties shall not, at the time of the execution of the contract, have  
38 any administrative or criminal actions pending against him or her."

39 Section 9. G.S. 58-71-145 reads as rewritten:

40 "**§ 58-71-145. Financial responsibility of professional bondsmen.**

41 Each professional bondsman acting as surety on bail bonds in this State shall maintain  
42 a deposit of securities with and satisfactory to the Commissioner of a fair market value of  
43 at least one-eighth the amount of all bonds or undertakings written in this State on which

1 he is absolutely or conditionally liable as of the first day of the current month. The  
2 amount of this deposit must be reconciled with the bondsman's liabilities as of the first  
3 day of the month on or before the fifteenth day of said month and the value of said  
4 deposit shall in no event be less than ~~five thousand dollars (\$5,000)~~ fifteen thousand dollars  
5 (\$15,000)."

6 Section 10. G.S. 58-71-185 reads as rewritten:

7 "**§ 58-71-185. Penalties for violations.**

8 ~~Any person, firm, association or corporation violating~~ Except as otherwise provided in  
9 this Article, any person who violates any of the provisions of this Article is guilty of a  
10 Class 1 misdemeanor."

11 Section 11. This act becomes effective October 1, 2000.