

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1999

HOUSE BILL 1608
RATIFIED BILL

AN ACT TO REQUIRE SUPERVISION OF FIRST-YEAR BAIL BONDSMEN AND RUNNERS; TO MAKE IT A CLASS I FELONY FOR A BONDSMAN TO KNOWINGLY AND WILLFULLY FAIL TO RETURN ANY COLLATERAL SECURITY VALUED AT MORE THAN ONE THOUSAND FIVE HUNDRED DOLLARS; TO REQUIRE THAT COLLATERAL SECURITY IN THE FORM OF CASH OR NEGOTIABLE INSTRUMENTS BE HELD IN TRUST ACCOUNTS; TO PROVIDE FOR THE DISPOSITION OF OUTSTANDING BAIL BOND OBLIGATIONS UPON THE DEATH, INCAPACITATION, OR INCOMPETENCE OF A BAIL BONDSMAN; AND TO INCREASE THE MINIMUM SECURITIES DEPOSIT REQUIRED OF PROFESSIONAL BONDSMEN.

The General Assembly of North Carolina enacts:

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

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

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

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

Section 3. Article 71 of Chapter 58 of the General Statutes is amended by adding a new section to read:

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

(a) Except as provided in this section, a first-year licensee shall have the same authority as other persons licensed as bail bondsmen or runners under this Article. Except as provided in subsection (d) of this section, a first-year licensee shall operate only under the supervision of and from the official business address of a licensed supervising bail bondsman for the first 12 months of licensure. A first-year licensee may only be employed by or contract with one supervising bail bondsman.

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

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

(d) If, after exercising due diligence, a first-year licensed bail bondsman is unable to become employed by or to contract with a supervising bail bondsman, the first-year licensed bail bondsman must submit to the Department a sworn affidavit stating the relevant facts and circumstances regarding the first-year licensed bail bondsman's inability to become employed by or contract with a supervising bail bondsman. The Department shall review the affidavit and determine whether the first-year licensed bail bondsman will be allowed to operate as an unsupervised bail

bondsman. A first-year licensed bail bondsman is prohibited from becoming a supervising bail bondsman during the first two years of licensure.

(e) Provided all other licensing requirements are met, an applicant for a bail bondsman or runner's license who has previously been licensed with the Commissioner for a period of at least 18 consecutive months and who has been inactive or unlicensed for a period of not more than three consecutive years shall not be deemed a new licensee for purposes of this section."

Section 4. G.S. 58-71-80 is amended by adding a new subsection to read:

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

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

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

Section 6. G.S. 58-71-100 reads as rewritten:

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

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

Section 7. Article 71 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-71-121. Death, incapacitation, or incompetence of a bail bondsman.

In the case of death, incapacitation, or incompetence of a licensed bail bondsman, the spouse or surviving spouse, next of kin, person or persons holding a power of attorney, guardian, executor, or administrator of the licensed bail bondsman may contract with another licensed bail bondsman to perform those duties to have the licensee's outstanding bail bond obligations resolved to the satisfaction of the courts. The contract must be filed with the Commissioner and every clerk of superior court where it can be determined the licensee has pending outstanding bail bond obligations. The licensed bail bondsman who has agreed to perform these duties shall not, at the time of the execution of the contract, have any administrative or criminal actions pending against him or her."

Section 8. G.S. 58-71-145 reads as rewritten:

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

Each professional bondsman acting as surety on bail bonds in this State shall maintain a deposit of securities with and satisfactory to the Commissioner of a fair market value of at least one-eighth the amount of all bonds or undertakings written in this State on which he is absolutely or conditionally liable as of the first day of the current month. The amount of this deposit must be reconciled with the bondsman's liabilities as of the first day of the month on or before the fifteenth day of said month and the value of said deposit shall in no event be less than ~~five thousand dollars (\$5,000)~~ fifteen thousand dollars (\$15,000)."

Section 9. G.S. 58-71-185 reads as rewritten:

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

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

Section 10. This act becomes effective October 1, 2000.

In the General Assembly read three times and ratified this the 13th day of July, 2000.

Marc Basnight
President Pro Tempore of the Senate

James B. Black
Speaker of the House of Representatives

James B. Hunt, Jr.
Governor

Approved _____ .m. this _____ day of _____ , 2000