

SECOND REGULAR SESSION

SENATE BILL NO. 892

95TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS DAYS AND SHOEMYER.

Read 1st time February 4, 2010, and ordered printed.

TERRY L. SPIELER, Secretary.

4631S.02I

AN ACT

To repeal sections 374.702, 374.705, 374.710, 374.715, 374.716, 374.720, 374.730, 374.740, 374.755, 374.757, 374.760, 374.763, 374.770, 374.775, 374.783, 374.784, 374.785, and 374.788, RSMo, and to enact in lieu thereof nineteen new sections relating to bail bond regulations, with penalty provisions and an effective date.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 374.702, 374.705, 374.710, 374.715, 374.716, 374.720, 374.730, 374.740, 374.755, 374.757, 374.760, 374.763, 374.770, 374.775, 374.783, 374.784, 374.785, and 374.788, RSMo, are repealed and nineteen new sections enacted in lieu thereof, to be known as sections 374.702, 374.705, 374.710, 374.715, 374.716, 374.720, 374.730, 374.740, 374.755, 374.757, 374.760, 374.763, 374.766, 374.770, 374.775, 374.783, 374.784, 374.785, and 374.788, to read as follows:

374.702. 1. No person shall engage in the bail bond business as a bail bond agent or a general bail bond agent without being licensed as provided in sections 374.695 to 374.775.

2. No judge, attorney, court official, law enforcement officer, **or** state, county, or municipal employee who is either elected or appointed shall be licensed as a bail bond agent or a general bail bond agent. **No employee, contractor, or volunteer of a court or law enforcement agency, or anyone employed at the location of a jail, shall be licensed as a bail bond agent or general bail bond agent. The provisions of this subsection shall not apply to an attorney whose license status is inactive.**

3. A licensed bail bond agent shall not execute or issue an appearance

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

12 bond in this state without holding a valid appointment from a general bail bond
13 agent and without attaching to the appearance bond an executed and
14 prenumbered power of attorney referencing the general bail bond agent [or] **and**
15 insurer. **The power of attorney shall be in the form and manner**
16 **prescribed by the director.**

17 4. A person licensed as an active bail bond agent shall hold the license for
18 at least [two] **four** years prior to owning or being an officer of a licensed general
19 bail bond agent.

20 5. **A corporation, partnership, association, limited liability**
21 **company, limited liability partnership, or other legal entity shall not**
22 **apply for a general bail bond agent license unless operating as a surety**
23 **bail bond agent.**

24 6. A general bail bond agent shall not engage in the bail bond business:

25 (1) Without having been licensed as a general bail bond agent pursuant
26 to sections 374.695 to 374.775; or

27 (2) Except through an agent licensed as a bail bond agent pursuant to
28 sections 374.695 to 374.775.

29 [6.] 7. A general bail bond agent shall not permit any unlicensed person
30 to solicit or engage in the bail bond business on the general bail bond agent's
31 behalf, except for individuals who are employed solely for the performance of
32 clerical, stenographic, investigative, or other administrative duties which do not
33 require a license pursuant to sections 374.695 to 374.789.

34 [7.] 8. Any person who is convicted of a violation of this section is guilty
35 of a class A misdemeanor. For any subsequent convictions, a person who is
36 convicted of a violation of this section is guilty of a class D felony.

374.705. 1. The department shall administer and enforce the provisions
2 of sections 374.695 to 374.789, prescribe the duties of its officers and employees
3 with respect to sections 374.695 to 374.789, and promulgate, pursuant to section
4 374.045 and chapter 536, RSMo, such rules and regulations within the scope and
5 purview of the provisions of sections 374.695 to 374.789 as the director considers
6 necessary and proper for the effective administration and interpretation of the
7 provisions of sections 374.695 to 374.789.

8 2. The director shall set the amount of all fees authorized and required
9 by the provisions of sections 374.695 to 374.789 by rules and regulations
10 promulgated pursuant to chapter 536, RSMo. All such fees shall be set at a level
11 designed to produce revenue which shall not substantially exceed the cost and

12 expense of administering the provisions of sections 374.695 to 374.789. However,
13 such fees shall not exceed [one] **three** hundred [fifty] dollars every two years for
14 biennial licenses and renewable licenses for general bail bond agents as provided
15 for in section 374.710. **Fees for filing quarterly financial statements shall**
16 **not exceed fifty dollars per filing.**

374.710. 1. Except as otherwise provided in sections 374.695 to 374.775,
2 no person or other entity shall practice as a bail bond agent or general bail bond
3 agent, as defined in section 374.700, in Missouri unless and until the department
4 has issued to him or her a license, to be renewed every two years as hereinafter
5 provided, to practice as a bail bond agent or general bail bond agent.

6 2. An applicant for a bail bond and general bail bond agent license shall
7 submit with the application proof that he or she has received [twenty-four] **forty**
8 hours of initial basic training in areas of instruction in subjects determined by
9 the director deemed appropriate to professionals in the bail bond profession. Bail
10 bond agents and general bail bond agents who are licensed at the date which this
11 act becomes law shall be exempt from such [twenty-four] **forty** hours of initial
12 basic training.

13 3. In addition to the [twenty-four] **forty** hours of initial basic training to
14 become a bail bond agent or general bail bond agent, there shall be eight hours
15 of biennial continuing education for all bail bond agents and general bail bond
16 agents to maintain their state license. The director shall determine said
17 appropriate areas of instruction for said biennial continuing education. The
18 director shall determine which institutions, organizations, associations, and
19 individuals shall be eligible to provide the initial basic training and the biennial
20 continuing education instruction. The department may allow state institutions,
21 organizations, associations, or individuals to provide courses for the initial basic
22 training and the biennial continuing education training. [The cost shall not
23 exceed two hundred dollars for the initial basic training and one hundred fifty
24 dollars for biennial continuing education.]

25 4. Upon completion of said basic training or biennial continuing education
26 and the licensee meeting the other requirements as provided under sections
27 374.695 to 374.789, the director shall issue a two-year license for the bail bond
28 agent or general bail bond agent for a fee not to exceed [one] **three** hundred
29 [fifty] dollars.

30 5. Nothing in sections 374.695 to 374.775 shall be construed to prohibit
31 any person from posting or otherwise providing a bail bond in connection with

32 any legal proceeding, provided that such person receives no fee, remuneration or
33 consideration therefor.

374.715. 1. Applications for examination and licensure as a bail bond
2 agent or general bail bond agent shall be in writing and on forms prescribed and
3 furnished by the department, and shall contain such information as the
4 department requires. Each application shall be accompanied by proof satisfactory
5 to the department that the applicant is a citizen of the United States, is at least
6 twenty-one years of age, has a high school diploma or general education
7 development certificate (GED), is of good moral character, and [meets the
8 qualifications for surety on bail bonds as provided by supreme court rule] **has**
9 **not had a final adjudication or a plea of guilty or nolo contendere in a**
10 **criminal prosecution under any state or federal law for a felony or a**
11 **crime involving moral turpitude whether or not a sentence was**
12 **imposed.** Each application shall be accompanied by the examination and
13 application fee set by the department. Individuals currently employed as bail
14 bond agents and general bail bond agents shall not be required to meet the
15 education requirements needed for licensure pursuant to this section. **The**
16 **requirement to not have a final adjudication or a plea of guilty or nolo**
17 **contendere in a criminal prosecution under any state or federal law for**
18 **a felony or a crime involving moral turpitude whether or not a sentence**
19 **was imposed shall not apply to bail bond agents and general bail bond**
20 **agents who are licensed on August 28, 2010.**

21 2. In addition, each applicant for licensure as a general bail bond agent
22 shall furnish proof satisfactory to the department that the applicant or, if the
23 applicant is a corporation, **partnership, association, limited liability**
24 **company, limited liability partnership, or other legal entity,** that each
25 officer thereof has completed at least [two] **four** years as a bail bond agent, and
26 that the applicant [possesses liquid] **has transferred to and deposited with**
27 **the department, for the security of its outstanding surety bond**
28 **obligations,** assets of at least ten thousand dollars[, along with a duly executed
29 assignment of ten thousand dollars to the state of Missouri. The assignment
30 shall become effective upon the applicant's violating any provision of sections
31 374.695 to 374.789. The assignment required by this section shall be in the form
32 and executed in the manner prescribed by the department] **in the financial**
33 **institution of the department's choosing. Such deposits shall be in the**
34 **form of cash, certificates of deposit, bonds, or treasury notes issued by**

35 **the United States, bonds of the state of Missouri, or bonds of any school**
36 **district or political subdivision of this state, and in all cases not to be**
37 **received at a rate above their par value, nor above their current**
38 **market value.** The director may require by regulation conditions by which
39 additional [assignments of] assets of the general bail bond agent may [occur] **be**
40 **required** when the circumstances of the business of the general bail bond agent
41 [warrants] **warrant** additional funds. However, such additional funds shall not
42 exceed [twenty-five] **fifty** thousand dollars.

374.716. 1. Every bail bond agent shall account for each power of
2 attorney assigned by the general bail bond agent on a weekly basis and remit all
3 sums collected and owed to the general bail bond agent pursuant to his or her
4 written contract. The general bail bond agent shall maintain the weekly
5 accounting and remittance records for a period of three years. Such records shall
6 be subject to inspection by the director or his or her designee during regular
7 business hours or at other reasonable times.

8 2. For every bond written in this state, the [licensee] **general bail bond**
9 **agent** shall provide to the [principal] **parties** a copy of the bail contract **and**
10 **receipts for any funds paid.**

11 3. For every bond written in this state in which the premium is
12 **financed by the licensee, the licensee shall provide, in writing, to all**
13 **parties of the contract the following:**

- 14 (1) **The bond amount;**
- 15 (2) **The premium amount agreed to by all parties;**
- 16 (3) **The terms of the financial agreement;**
- 17 (4) **A receipt for the acceptance of any money; and**
- 18 (5) **The date and signatures of all parties to the contract.**

374.720. 1. Each applicant for licensure as a general bail bond agent,
2 after complying with this section and the provisions of section 374.715, shall [be
3 issued a license by the department unless grounds exist under section 374.755 for
4 denial of a license] **appear for examination at the time and place specified**
5 **by the department. Such examination shall be prescribed by the**
6 **director as provided under section 375.018 and shall be designed to test**
7 **the applicant's knowledge and expertise in the area of surety bonds in**
8 **general and the practice of a general bail bond agent, as defined in**
9 **sections 374.700 to 374.775, in particular. The applicant shall be**
10 **notified of the result of the examination within twenty working days of**

11 **the examination. Any applicant who fails such examination may, upon**
12 **reapplication and payment of the reexamination fee set by the**
13 **department, retake the examination.**

14 2. Each applicant for examination and licensure as a bail bond agent,
15 after complying with the provisions of section 374.715, shall appear for
16 examination at the time and place specified by the department. Such
17 examination shall be as prescribed by the director as provided under section
18 375.018, RSMo, and shall be designed to test the applicant's knowledge and
19 expertise in the area of surety bonds in general and the practice of a bail bond
20 agent, as defined in sections 374.700 to 374.775, in particular. The applicant
21 shall be notified of the result of the examination within twenty working days of
22 the examination. Any applicant who fails such examination may, upon
23 reapplication and payment of the reexamination fee set by the department, retake
24 the examination.

374.730. 1. All licenses issued to bail bond agents and general bail bond
2 agents under the provisions of sections 374.700 to 374.775 shall be renewed
3 biennially, which renewal shall be in the form and manner prescribed by the
4 department and shall be accompanied by the renewal fee set by the department.

5 2. **The department shall provide the director of the department**
6 **of revenue with the name and social security number of each:**

7 (1) **Bail bond agent, general bail bond agent, or surety recovery**
8 **agent applicant for licensure within one month of the date the**
9 **application is filed; and**

10 (2) **Bail bond agent, general bail bond agent, or surety recovery**
11 **agent licensee applying for renewal at least one month prior to the**
12 **anticipated renewal of the bail bond agent's, general bail bond agent's,**
13 **or surety recovery agent's license.**

14 **The director of the department of revenue shall verify if the applicant**
15 **or licensee is delinquent on any state taxes or has failed to file state**
16 **income tax returns in the last three years. If such information is**
17 **verified, the director of the department of revenue shall send notice to**
18 **the department and the licensee or applicant. In the case of such**
19 **delinquency or failure to file, the application shall be denied or the**
20 **license shall not be renewed within ninety days after notice of such**
21 **delinquency or failure to file, unless the director of the department of**
22 **revenue verifies that such delinquency or failure has been remedied or**

23 **arrangements have been made to achieve such remedy. An applicant**
24 **or licensee shall be considered to have paid his or her state taxes under**
25 **this section for tax liability paid in protest or reasonably founded**
26 **disputes with such liability.**

374.740. Any person applying to be licensed as a nonresident general bail
2 bond agent who has been licensed in another state shall devote fifty percent of his
3 or her working time in the state of Missouri and shall file proof with the director
4 of the department of insurance, financial institutions and professional
5 registration as to his or her compliance, and accompany his or her application
6 with the fees set by the director by regulation [and, if applying for a nonresident
7 general bail bond agent's license, with a duly executed assignment
8 of]. **Nonresident general bail bond agents shall also transfer and**
9 **deposit with the department, for the security of its outstanding surety**
10 **bond obligations, assets of twenty-five thousand dollars [to the state of**
11 **Missouri, which assignment shall become effective upon the applicant's violating**
12 **any provision of sections 374.695 to 374.789. Failure to comply with this section**
13 **will result in revocation of the nonresidence license. The assignment required by**
14 **this section shall be in the form and executed in the manner prescribed by the**
15 **department]. These assets shall be held in a Missouri financial**
16 **institution of the department's choosing. Such deposits shall be held**
17 **in the form of cash, certificates of deposit, bonds or treasury notes**
18 **issued by the United States, bonds of the state of Missouri, or bonds of**
19 **any school district or political subdivision of this state, and in all cases**
20 **not to be received at a rate above their par value, nor above their**
21 **current market value. The director may require by rule conditions by**
22 **which additional assets of the general bail bond agent may be required**
23 **when the circumstances of the business of the nonresident general bail**
24 **bond agent warrant additional funds. However, such additional assets**
25 **shall not exceed fifty thousand dollars.** All licenses issued pursuant to this
26 section shall be subject to the same renewal requirements set for other licenses
27 issued pursuant to sections 374.695 to 374.789.

374.755. 1. The department may cause a complaint to be filed with the
2 administrative hearing commission as provided by chapter 621, RSMo, against
3 any holder of any license required by sections 374.695 to 374.775 or any person
4 who has failed to renew or has surrendered his or her license for any one or any
5 combination of the following causes:

- 6 (1) Use of any controlled substance, as defined in chapter 195, RSMo, or
7 alcoholic beverage to an extent that such use impairs a person's ability to perform
8 the work of the profession licensed under sections 374.695 to 374.775;
- 9 (2) Final adjudication or a plea of guilty or nolo contendere [within the
10 past fifteen years] in a criminal prosecution under any state or federal law for a
11 felony or a crime involving moral turpitude whether or not a sentence is
12 imposed[, prior to issuance of license date];
- 13 (3) Use of fraud, deception, misrepresentation or bribery in securing any
14 license or in obtaining permission to take any examination required pursuant to
15 sections 374.695 to 374.775;
- 16 (4) Obtaining or attempting to obtain any compensation as a member of
17 the profession licensed by sections 374.695 to 374.775 by means of fraud,
18 deception or misrepresentation;
- 19 (5) Misappropriation of the premium, collateral, or other things of value
20 given to a bail bond agent or a general bail bond agent for the taking of bail,
21 incompetency, **financial irresponsibility, untrustworthiness**, misconduct,
22 gross negligence, fraud, or misrepresentation in the performance of the functions
23 or duties of the profession licensed or regulated by sections 374.695 to 374.775;
- 24 (6) Violation of any provision of or any obligation imposed by the laws of
25 this state, department of insurance, financial institutions and professional
26 registration rules and regulations, or aiding or abetting other persons to violate
27 such laws, orders, rules or regulations, or subpoenas;
- 28 (7) Transferring a license or permitting another person to use a license
29 of the licensee;
- 30 (8) Disciplinary action against the holder of a license or other right to
31 practice the profession regulated by sections 374.695 to 374.789 granted by
32 another state, territory, federal agency or country upon grounds for which
33 revocation or suspension is authorized in this state;
- 34 (9) Being finally adjudged insane or incompetent by a court of competent
35 jurisdiction;
- 36 (10) Assisting or enabling any person to practice or offer to practice the
37 profession licensed or regulated by sections 374.695 to 374.789 who is not
38 currently licensed and eligible to practice pursuant to sections 374.695 to 374.789;
- 39 (11) Acting in the capacity of an attorney at a trial or hearing of a person
40 for whom the attorney is acting as surety;
- 41 (12) Failing to provide a copy of the bail contract, [renumbered]

42 **prenumbered** written receipt for acceptance of money, or other collateral for the
43 taking of bail to the principal, if requested by any person who is a party to the
44 bail contract, or any person providing funds or collateral for bail on the
45 principal's behalf;

46 **(13) Submitting a fraudulent, deceptive, or misleading financial**
47 **statement or statement of outstanding bonds to the department or a**
48 **court in this state.**

49 2. After the filing of such complaint, the proceedings shall be conducted
50 in accordance with the provisions of chapter 621, RSMo. Upon a finding by the
51 administrative hearing commission that one or more of the causes stated in
52 subsection 1 of this section have been met, the director may suspend or revoke
53 the license or enter into an agreement for a monetary or other penalty pursuant
54 to section 374.280.

55 3. In lieu of filing a complaint at the administrative hearing commission,
56 the director and the bail bond agent or general bail bond agent may enter into an
57 agreement for a monetary or other penalty pursuant to section 374.280.

58 4. In addition to any other remedies available, the director may issue a
59 cease and desist order or may seek an injunction in a court of competent
60 jurisdiction pursuant to the provisions of section 374.046 whenever it appears
61 that any person is acting as a bail bond agent or general bail bond agent without
62 a license or violating any other provisions of sections 374.695 to 374.789.

374.757. 1. Any agent licensed by sections 374.695 to [374.775] **374.789**
2 who intends to apprehend any person in this state shall inform law enforcement
3 authorities in the city or county in which such agent intends such apprehension,
4 before attempting such apprehension. Such agent shall present to the local law
5 enforcement authorities a certified copy of the bond and all other appropriate
6 paperwork identifying the principal and the person to be apprehended. Local law
7 enforcement may accompany the agent. Failure of any agent to whom this section
8 applies to comply with the provisions of this section shall be a class A
9 misdemeanor for the first violation and a class D felony for subsequent violations;
10 and shall also be a [violation of] **cause for discipline under** section 374.755
11 **or 374.787** and may in addition be punished pursuant to that section.

12 2. The surety recovery agent shall inform the local law enforcement in the
13 county or city where such agent is planning to enter a residence. Such agent
14 shall have a certified copy of the bond and all appropriate paperwork to identify
15 the principal. Local law enforcement, when notified, may accompany the surety

16 recovery agent to that location to keep the peace if an active warrant is effective
17 for a felony or misdemeanor. If a warrant is not active, the local law enforcement
18 officers may accompany the surety recovery agent to such location. Failure to
19 report to the local law enforcement agency is a class A misdemeanor. For any
20 subsequent violations, failure to report to the local law enforcement agency is a
21 class D felony.

374.760. 1. Each general bail bond agent shall file, [between the first and
2 tenth day of each month, sworn affidavits with the department stating that there
3 are no unsatisfied judgments against him. Such affidavits shall be in the form
4 and manner prescribed by the department] **with the initial application for
5 licensure and annually with the March thirty-first quarterly financial
6 statement thereafter, the following information:**

7 (1) **A financial statement in a form determined by the
8 department to be used as proof of security for bail bonds written in this
9 state. Acceptable assets for security consist of the following:**

10 (a) **Real estate located in the state of Missouri;**

11 (b) **Certificates of deposit issued by a FDIC-insured or NCUA-
12 insured financial institution located in the state of Missouri or cash
13 held on deposit by such institutions;**

14 (c) **Amounts of joint deposit in accordance with subsection 2 of
15 section 374.715 or section 374.740; or**

16 (d) **Any asset that is not in the form of real estate, cash, or
17 certificates of deposit issued by a FDIC-insured or NCUA-insured
18 financial institution that has been specifically approved by the
19 department;**

20 (2) **If the property used as an asset is real estate, the general bail
21 bond agent shall submit to the department:**

22 (a) **A complete real estate appraisal conducted within the last
23 two years by a Missouri licensed real estate appraiser showing the total
24 market value of the property and a general description of such
25 property or a true copy of the current real estate tax assessment
26 thereof;**

27 (b) **An ownership and encumbrance report from a Missouri
28 licensed title company; and**

29 (c) **When applicable, a copy of the mortgage statement from any
30 federal or state financial institution showing the amounts due under
31 any obligations secured by liens or similar encumbrances against the**

32 real estate, including any delinquent taxes, within one year of the date
33 of submission. At its discretion, the department may require additional
34 documentation to verify these amounts;

35 (3) Each general bail bond agent shall notify the director within
36 ten days of any transfer or encumbrance of real estate included in the
37 general bail bond agent's statement of assets;

38 (4) If the property used as an asset is a certificate of deposit or
39 cash, a true and complete copy of a bank statement or other
40 documentation from a financial institution dated within one month of
41 the date of submission showing the value of the account shall be
42 submitted as verification.

43 2. Each general bail bond agent shall file a quarterly financial
44 statement within thirty days of the end of each calendar quarter after
45 initial licensure as a general bail bond agent or more often if so
46 directed by the department. Each general bail bond agent shall file a
47 statement of outstanding bonds with the department within five days
48 of the first day of each month. Such statement of outstanding bonds
49 shall be in the form and manner prescribed by the department. Failure
50 to file the quarterly financial statement or monthly statement of
51 outstanding bonds will result in immediate removal of the general bail
52 bond agent from the preapproved list of general bail bond agents kept
53 by the department and is a cause to file a complaint against the general
54 bail bond agent under section 374.755.

55 (1) To verify the value of the quarterly reported assets and
56 liabilities, the general bail bond agent shall submit copies of the
57 monthly bank statements reporting the value of the reported
58 certificates of deposit and cash balances received since the initial
59 application or prior quarterly financial statement filed with the
60 department. The general bail bond agent may, at his or her discretion,
61 submit updated appraisals as often as desired to support the market
62 value of any real estate.

63 (2) The amount of bonds a general bail bond agent may issue
64 shall not exceed the limitations set forth in subsections 3 and 4 of this
65 section. The department may, at its discretion, request copies of all
66 issued bonds reported on the statement of outstanding bonds.

67 3. The director shall provide a list of all preapproved general
68 bail bond agents to the courts in a form and manner prescribed by the

69 **director on at least a monthly basis. A general bail bond agent shall be**
70 **preapproved to write outstanding bonds totaling fifteen times the**
71 **general bail bond agent's assets less encumbrances. When the amount**
72 **of a general bail bond agent's outstanding bonds is equal to or greater**
73 **than fifteen times the general bail bond agent's assets less**
74 **encumbrances, the general bail bond agent shall be removed from the**
75 **preapproved list until the general bail bond agent can demonstrate to**
76 **the department that either the amount of outstanding bonds has been**
77 **reduced below fifteen times the amount of the general bail bond agent's**
78 **assets or that additional assets have been secured to allow outstanding**
79 **bonds to fall below fifteen times the amount of the general bail bond**
80 **agent's assets. Such additionally secured assets shall be submitted on**
81 **a revised quarterly financial statement with the appropriate supporting**
82 **documentation. The department shall update the preapproved list of**
83 **general bail bond agents on at least a monthly basis.**

84 **4. For general bail bond agents acting as property bail**
85 **bondsmen, the value of any particular bond issued shall not exceed fifty**
86 **percent of the general bail bond agent's secured assets less**
87 **encumbrances unless specifically approved by the court. The general**
88 **bail bond agent shall, within ten days of its issuance, notify the**
89 **department and provide a copy of such bond and the court's approval.**

90 **5. Intentionally providing fraudulent, deceptive, or misleading**
91 **financial statements or statements of outstanding bonds to the**
92 **department or a court in this state is a class D felony.**

374.763. 1. [If any final judgment ordering forfeiture of a defendant's
2 bond is not paid within a six-month period of time, the court shall extend the
3 judgment date or notify the department of the failure to satisfy such judgment.]
4 **If a bond is posted by a surety, who charges or receives compensation**
5 **for signing a bond, and the defendant fails to appear at a required**
6 **court appearance, the court shall immediately issue a warrant for**
7 **arrest for the defendant, and shall enter a bond forfeiture in favor of**
8 **the state or municipality and against the general bail bond agent and**
9 **insurer. The general bail bond agent shall be allowed at least ninety**
10 **days after the defendant's failure to appear before a forfeiture shall be**
11 **considered a final judgment, subject to the provisions set forth in this**
12 **section. The forfeiture automatically becomes a final judgment on the**
13 **ninetieth day unless the court extends the time for final judgment**

14 entry. The clerk of the court shall immediately provide notice of the
15 forfeiture order to the general bail bond agent or insurer at the address
16 on file with the court. This section shall apply to all divisions of the
17 circuit court hearing such matters, including municipal divisions.

18 2. At any time, upon request of the general bail bond agent, bail
19 bond agent, or surety recovery agent, the clerk of the court shall, for
20 the usual cost for certified copies, provide a certified copy of the bond
21 to such agent.

22 3. The court shall extend the date for entry of final judgment no
23 less than ninety additional days, if the agent tenders to the court the
24 full amount of the criminal appearance bond.

25 4. The forfeiture order shall be set aside, if before final judgment
26 or within thirty days after the date of final judgment, the general bail
27 bond agent establishes:

28 (1) The defendant is incarcerated somewhere in the United
29 States and is unavailable for return to the court;

30 (2) The defendant was incarcerated somewhere in the United
31 States after the date the defendant failed to appear but prior to the
32 date of final judgment;

33 (3) The defendant is being held in another jurisdiction and has
34 asked the court for leave to return to the court issuing the warrant;

35 (4) The defendant has been deported;

36 (5) The defendant has died; or

37 (6) Other just causes accepted by the court.

38 5. When the judgment under this section is final, the clerk of the
39 court shall immediately notify the department. Except in municipal
40 divisions, when the judgment is final, the clerk of the court shall file a
41 copy of the final judgment in the office of the clerk of the circuit
42 court. The clerk of the circuit court shall file such judgment and enter
43 it in the record of the circuit court for judgments and decrees under
44 the procedure prescribed for filing transcripts of judgments.

45 6. Unless notice of appeal of the final judgment is filed, thirty
46 days after final judgment, the court shall distribute the amount
47 tendered in accordance with the law and notify the department of the
48 satisfaction. If notice of appeal is filed, the amount tendered shall not
49 be distributed, and shall remain as tendered to the court pending
50 appeal.

51 **7. Thirty days after final judgment, if the bond forfeiture has not**
52 **been paid, the general bail bond agent's authorization to write bail**
53 **bonds in the state of Missouri shall immediately be suspended until**
54 **that judgment has been satisfied, vacated, or otherwise discharged by**
55 **order of the court and** the director shall draw upon the assets of the surety,
56 remit the sum to the court, and obtain a receipt of such sum from the court. The
57 director may take action as provided by section 374.755, regarding the license of
58 the surety and any bail bond agents writing upon the surety's liability. **The**
59 **department shall notify the courts when a general bail bond agent's**
60 **authorization to write bail bonds in the state of Missouri has been**
61 **suspended and when it has been reinstated.**

62 **8. Thirty days after final judgment, if an insurer fails to pay a**
63 **bond forfeiture, the insurer's authorization to transact surety business**
64 **in the state of Missouri shall immediately be suspended until that**
65 **judgment has been satisfied, vacated, or otherwise discharged by order**
66 **of the court. The department shall notify the courts when an insurer's**
67 **authorization to transact surety business in the state of Missouri has**
68 **been suspended and when it has been reinstated.**

69 [2.] **9.** The department shall furnish to the presiding judge of each circuit
70 court of this state, on at least a monthly basis, a list of all duly licensed and
71 qualified bail bond agents and general bail bond agents whose licenses are not
72 subject to pending suspension or revocation proceedings, and who are not subject
73 to unsatisfied bond forfeiture judgments. In lieu of such list, the department may
74 provide this information to each presiding judge in an electronic format.

75 [3.] **10.** All duly licensed and qualified bail bond agents and general bail
76 bond agents shall be qualified, without further requirement, to write bail upon
77 a surety's liability in all courts of this state as provided in rules promulgated by
78 the supreme court of Missouri and not by any circuit court rule. **In all cases**
79 **where the court has set a bond requiring a percentage deposit, a**
80 **licensed surety may satisfy such bond by posting a surety bond in the**
81 **full face amount of the bond.**

374.766. 1. If the director determines that a person has engaged
2 **in or is engaging in an act, practice, or course of business constituting**
3 **a violation of sections 374.702 to 374.789 or a rule adopted or order**
4 **issued or pursuant thereto, or that a person has materially aided or is**
5 **materially aiding an act, omission, or course of constituting a violation**

6 of sections 374.702 to 374.789 or a rule adopted or order pursuant
7 thereto, the director may issue such administrative orders as
8 authorized under section 374.046. A violation of sections 374.702,
9 374.710, 374.716, 374.719, 374.775, 374.783, and 374.789 is a level two
10 violation under section 374.049. A violation of sections 374.717 or
11 374.757 is a level three violation under section 374.049. A violation of
12 section 374.788 is a level four violation under section 374.049.

13 2. If the director believes that a person has engaged in or is
14 engaging in an act, practice, or course of business constituting a
15 violation of sections 374.702 to 374.789 or a rule adopted or order issued
16 pursuant thereto, or that a person has materially aided or is materially
17 aiding an act practice, omission, or course of business constituting a
18 violation of sections 374.702 to 374.789 or a rule adopted or order issued
19 pursuant thereto, the director may maintain a civil action for relief
20 authorized under section 374.048. A violation of sections 374.702,
21 374.710, 374.716, 374.719, 374.775, 374.783, or 374.789 is a level two
22 violation under section 374.049. A violation of sections 374.717 or
23 374.757 is a level three violation under section 374.049. A violation of
24 section 374.788 is a level four violation under section 374.049.

374.770. [1. If there is a breach of the contract of the bond, the court in
2 which the case is pending shall declare a bond forfeiture, unless the surety upon
3 such bond informs the court that the defendant is incarcerated somewhere within
4 the United States. If forfeiture is not ordered because the defendant is
5 incarcerated somewhere within the United States, the surety is responsible for
6 the return of the defendant. If bond forfeiture is ordered and the surety can
7 subsequently prove the defendant is incarcerated somewhere within the United
8 States, then the bond forfeiture shall be set aside and the surety be responsible
9 for the return of the defendant. When the surety notifies the court of the
10 whereabouts of the defendant, a hold order shall be placed by the court having
11 jurisdiction on the defendant in the state in which the defendant is being held.

12 2.] In all instances in which a bail bond agent or general bail bond agent
13 duly licensed by sections 374.700 to 374.775 has given his bond for bail for any
14 defendant who has absented himself in violation of the condition of such bond, the
15 bail bond agent or general bail bond agent shall have the first opportunity to
16 return such defendant to the proper court. If he is unable to return such
17 defendant, the state of Missouri shall return such defendant to the proper court

18 for prosecution, and all costs incurred by the state in so returning a defendant
19 may be levied against the bail bond agent or general bail bond agent in question.

374.775. [When issuing bonds of one thousand dollars or less, licensed
2 bail bond agents or general bail bond agents may charge a minimum premium of
3 fifty dollars. In connection with such] **For bonds of one thousand dollars or**
4 **less, except for the initial premium agreed to**, no bail bond agent, general
5 bail bond agent, or corporation shall charge or receive any additional fee for
6 investigations or services rendered in connection with the execution of the bond.

374.783. 1. No person shall hold himself or herself out as being a surety
2 recovery agent in this state, unless such person is licensed in accordance with the
3 provisions of sections 374.783 to 374.789. Licensed bail bond agents and general
4 bail bond agents may perform fugitive recovery without being licensed as a surety
5 recovery agent.

6 2. The director shall have authority to license all surety recovery agents
7 in this state. The director shall have control and supervision over the licensing
8 of such agents and the enforcement of the terms and provisions of sections
9 374.783 to 374.789.

10 3. The director shall have the power to:

11 (1) Set and determine the amount of the fees authorized and required
12 pursuant to sections 374.783 to 374.789. The fees shall be set at a level sufficient
13 to produce revenue which shall not substantially exceed the cost and expense of
14 administering sections 374.783 to 374.789. However, such fees shall not exceed
15 **[one] three** hundred **[fifty]** dollars for a two-year license; and

16 (2) Determine the sufficient qualifications of applicants for a license.

17 4. The director shall license for a period of two years all surety recovery
18 agents in this state who meet the requirements of sections 374.783 to 374.789.

374.784. 1. Applications for examination and licensure as a surety
2 recovery agent shall be submitted on forms prescribed by the department and
3 shall contain such information as the department requires, along with a copy of
4 the front and back of a photographic identification card.

5 2. Each application shall be accompanied by proof satisfactory to the
6 director that the applicant is a citizen of the United States, is at least twenty-one
7 years of age, and has a high school diploma or a general educational development
8 certificate (GED). An applicant shall furnish evidence of such person's
9 qualifications by completing an approved surety recovery agent course with at
10 least **[twenty-four] forty** hours of initial minimum training. The director shall

11 determine which institutions, organizations, associations, and individuals shall
12 be eligible to provide said training. Said instructions and fees associated
13 therewith shall be identical or similar to those prescribed in section 374.710 for
14 bail bond agents and general bail bond agents.

15 3. In addition to said twenty-four hours of initial minimum training,
16 licensees shall be required to receive eight hours of biennial continuing education
17 of which said instructions and fees shall be identical or similar to those
18 prescribed in section 374.710 for bail bond agents and general bail bond agents.

19 4. Applicants for surety recovery agents licensing shall be exempt from
20 said requirements of the twenty-four hours of initial minimum training if
21 applicants provide proof of prior training as a law enforcement officer with at
22 least two years of such service within the ten years prior to the application being
23 submitted to the department.

24 5. The director may refuse to issue any license pursuant to sections
25 374.783 to 374.789, for any one or any combination of causes stated in section
26 374.787. The director shall notify the applicant in writing of the reason or
27 reasons for refusal and shall advise the applicant of the right to file a complaint
28 with the administrative hearing commission to appeal the refusal as provided by
29 chapter 621, RSMo.

374.785. 1. The director shall issue a license for a period of two years to
2 any surety recovery agent who is licensed in another jurisdiction and who:

3 (1) Has no violations, suspensions, or revocations of a license to engage
4 in fugitive recovery in any jurisdiction; and

5 (2) Is licensed in a jurisdiction whose requirements are substantially
6 equal to or greater than the requirements for a surety recovery agent license in
7 Missouri at the time the applicant applies for a license.

8 2. Any surety recovery agent who is licensed in another state shall also
9 be subject to the same training requirements as in-state surety recovery agents
10 prescribe to under section 374.784.

11 3. [For the purpose of surrender of the defendant, a surety recovery agent
12 may apprehend the defendant anywhere within the state of Missouri before or
13 after the forfeiture of the undertaking without personal liability for false
14 imprisonment or may empower any surety recovery agent to make apprehension
15 by providing written authority endorsed on a certified copy of the undertaking
16 and paying the lawful fees.

17 4.] Every applicant for a license pursuant to this section, upon making

18 application and showing the necessary qualifications as provided in this section,
19 shall be required to pay the same fee as required of resident applicants. Within
20 the limits provided in this section, the director may negotiate reciprocal compacts
21 with licensing entities of other states for the admission of licensed surety recovery
22 agents from Missouri in other states.

374.788. 1. A bail bond agent having probable grounds to believe a
2 subject free on his or her bond has failed to appear as directed by a court, has
3 breached the terms of the subject's surety agreement, or has taken a substantial
4 step toward absconding may utilize all lawful means to apprehend the subject. To
5 surrender a subject to a court, a licensed bail bond or surety recovery agent
6 having probable grounds to believe the subject is free on his or her bond may:

7 (1) Detain the subject in a lawful manner, for a reasonable time, provided
8 that in the event travel from another state is involved, the detention period may
9 include reasonable travel time not to exceed seventy-two hours;

10 (2) Transport a subject in a lawful manner from **another** state to **within**
11 **the state of Missouri**, and **from** county to county to a place of authorized
12 surrender; and

13 (3) Enter upon private or public property in a lawful manner to execute
14 apprehension of a subject.

15 2. A surety recovery agent who apprehends a subject pursuant to the
16 provisions of subsection 1 of this section shall surrender custody of the subject to
17 the court of jurisdiction.

18 3. When a surety recovery agent is in the process of performing fugitive
19 recovery, a photographic identification card shall be prominently displayed on his
20 or her person.

21 **4. For the purpose of surrender of the defendant, a bail bond**
22 **agent may apprehend the defendant anywhere within the state of**
23 **Missouri before or after the forfeiture of the undertaking without**
24 **personal liability for false imprisonment or may empower any surety**
25 **recovery agent to make apprehension by providing written authority**
26 **endorsed on a certified copy of the undertaking and paying the lawful**
27 **fees.**

Section B. Section A of this act shall become effective January 1, 2011.

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