

1 STATE OF OKLAHOMA

2 1st Session of the 56th Legislature (2017)

3 HOUSE BILL 1118

By: Kirby

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5  
6 AS INTRODUCED

7 An Act relating to professions and occupations;  
8 amending 59 O.S. 2011, Sections 1305, as last amended  
9 by Section 2, Chapter 53, O.S.L. 2014, 1308, 1315, as  
10 last amended by Section 33, Chapter 210, O.S.L. 2016,  
11 1320, as last amended by Section 10, Chapter 110,  
12 O.S.L. 2015 and 1332, as last amended by Section 1,  
13 Chapter 187, O.S.L. 2015 (59 O.S. Supp. 2016,  
14 Sections 1305, 1315, 1320 and 1332), which relates to  
15 bail bondsmen; modifying information submitted by  
16 applicant; modifying validity of applications;  
17 providing exemptions for persons or classes  
18 prohibited as bondsmen; modifying certain notice  
19 requirement to court clerk; requiring posting of  
20 certain list by law enforcement; requiring update and  
21 distribution of list by court clerk; modifying  
22 vacating certain order by the court; and providing an  
23 effective date.  
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18 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

19 SECTION 1. AMENDATORY 59 O.S. 2011, Section 1305, as  
20 last amended by Section 2, Chapter 53, O.S.L. 2014 (59 O.S. Supp.  
21 2016, Section 1305), is amended to read as follows:

22 Section 1305. A. The application for license to serve as a  
23 bail bondsman shall affirmatively show that the applicant:  
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- 1        1. Is a person who has reached the age of twenty-one (21)
- 2 years;
- 3        2. Is competent, trustworthy, financially responsible, and is
- 4 of good personal and business reputation and character;
- 5        3. Has not been previously convicted of, or pled guilty or nolo
- 6 contendere to, any felony, or to a misdemeanor involving moral
- 7 turpitude or dishonesty;
- 8        4. Is a citizen of the United States;
- 9        5. Has been a bona fide resident of the state for at least one
- 10 (1) year;
- 11        6. Will actively engage in the bail bond business;
- 12        7. Has knowledge or experience, or has received instruction in
- 13 the bail bond business; and
- 14        8. Has a high school diploma or its equivalent; provided,
- 15 however, the provisions of this paragraph shall apply only to
- 16 initial applications for license submitted on or after November 1,
- 17 1997, and shall not apply to renewal applications for license.
- 18        B. The applicant shall apply electronically on forms approved
- 19 by the Insurance Commissioner, and the Commissioner may propound any
- 20 reasonable interrogatories to an applicant for a license pursuant to
- 21 Sections 1301 through ~~1340~~ 1341 of this title, or on any renewal
- 22 thereof, relating to qualifications, residence, prospective place of
- 23 business and any other matters which, in the opinion of the
- 24 Commissioner, are deemed necessary or expedient in order to protect

1 the public and ascertain the qualifications of the applicant. The  
2 Commissioner may also conduct any reasonable inquiry or  
3 investigation relative to the determination of the fitness of the  
4 applicant to be licensed or to continue to be licensed including,  
5 but not limited to, requiring a national criminal history record  
6 check as defined by Section 150.9 of Title 74 of the Oklahoma  
7 Statutes. The Commissioner may require any documents reasonably  
8 necessary to verify the information in the application.

9 C. An applicant shall furnish to the Commissioner a license fee  
10 of Two Hundred Fifty Dollars (\$250.00) with the application, ~~a~~ two  
11 complete ~~set~~ sets of the fingerprints of the applicant and ~~two~~ one  
12 recent credential-size full face ~~photographs~~ photograph of the  
13 applicant. The fingerprints of the applicant shall be certified by  
14 an authorized law enforcement officer. The applicant shall provide  
15 with the application an investigative fee of One Hundred Dollars  
16 (\$100.00) with which the Commissioner will conduct an investigation  
17 of the applicant. All fees shall be nonrefundable.

18 D. In addition to the license fee set forth in subsection C of  
19 this section, an applicant for a multicounty agent bondsman license  
20 shall furnish to the Commissioner a license fee of Seven Hundred  
21 Fifty Dollars (\$750.00).

22 E. Failure of the applicant to secure approval of the  
23 Commissioner shall not preclude the applicant from reapplying, but a  
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1 second application shall not be considered by the Commissioner  
2 within three (3) months after denial of the last application.

3 F. The fee for a duplicate pocket license shall be Twenty-five  
4 Dollars (\$25.00).

5 SECTION 2. AMENDATORY 59 O.S. 2011, Section 1308, is  
6 amended to read as follows:

7 Section 1308. A. The applicant for bail bondsman shall be  
8 required to appear in person and take an examination prepared by the  
9 Insurance Commissioner, testing the applicant's ability and  
10 qualifications to be a bail bondsman. Applications are valid for  
11 ~~six (6)~~ three (3) months after submission. If an applicant has not  
12 acted upon the application within that period, a new application and  
13 fees shall be submitted for the applicant to be considered for  
14 licensure.

15 B. Each applicant shall become eligible for examination if the  
16 applicant has completed sixteen (16) hours of education as required  
17 by Section 1308.1 of this title prior to the examination.  
18 Examinations shall be held at times and places as designated by the  
19 Commissioner.

20 C. The fee for the examination shall be One Hundred Dollars  
21 (\$100.00). Results will be provided after the applicant is  
22 examined.

23 D. The failure of an applicant to pass an examination shall not  
24 preclude the applicant from taking subsequent examinations;

1 provided, however, that at least thirty (30) days shall intervene  
2 between examinations; and provided further, after a third or  
3 subsequent examination failure, an applicant may not be examined for  
4 at least one (1) year after the last examination failure.

5 SECTION 3. AMENDATORY 59 O.S. 2011, Section 1315, as  
6 last amended by Section 33, Chapter 210, O.S.L. 2016 (59 O.S. Supp.  
7 2016, Section 1315), is amended to read as follows:

8 Section 1315. A. The following persons or classes shall not be  
9 bail bondsmen, shall not perform the acts of a bail bondsman and  
10 shall not directly or indirectly receive any benefits from the  
11 execution of any bail bond:

12 1. Persons convicted of, or who have pled guilty or nolo  
13 contendere to, any felony or to a misdemeanor involving dishonesty  
14 or moral turpitude;

15 2. Jailers;

16 3. Police officers;

17 4. Committing judges;

18 5. Municipal or district court judges;

19 6. Prisoners;

20 7. Sheriffs, deputy sheriffs and any person having the power to  
21 arrest or having anything to do with the control of federal, state,  
22 county or municipal prisoners;

23 8. Any person who possesses a permit pursuant to the provisions  
24 of Section 163.11 of Title 37 of the Oklahoma Statutes or is an

1 officer, director or stockholder of any corporation holding such a  
2 permit, except as specifically authorized for a licensed bondsman in  
3 Section 1315.1 of this title;

4 9. Any person who is an agent or owner of any establishment at  
5 which low-point beer as defined by Section 163.2 of Title 37 of the  
6 Oklahoma Statutes is sold for on-premises consumption, except as  
7 specifically authorized for a licensed bondsman in Section 1315.1 of  
8 this title;

9 10. Any person who holds any license provided for in Section  
10 518 of Title 37 of the Oklahoma Statutes or is an agent or officer  
11 of any such licensee, except for an individual holding an employee  
12 license pursuant to paragraph 20 of subsection A of Section 518 of  
13 Title 37 of the Oklahoma Statutes or as specifically authorized for  
14 a licensed bondsman in Section 1315.1 of this title;

15 11. Any person who holds any license or permit from any city,  
16 town, county, or other governmental subdivision for the operation of  
17 any private club at which alcoholic beverages are consumed or  
18 provided, except as specifically authorized for a licensed bondsman  
19 in Section 1315.1 of this title;

20 12. Any person or agent of a retail liquor package store; and

21 13. Any person whose bail bondsman license has been revoked by  
22 the Insurance Commissioner.

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1 B. This section shall not apply to a sheriff, deputy sheriff,  
2 police officer, or officer of the law who is not on duty and who  
3 assists in the apprehension of a defendant.

4 C. The provisions of this section shall not apply to persons  
5 possessing permits or licenses pertaining to low-point beer or  
6 alcoholic beverages, as defined in Sections 163.2 and 506 of Title  
7 37 of the Oklahoma Statutes, which were issued prior to May 23,  
8 1984. No one shall be permitted to maintain an office for  
9 conducting bail bonds business where low-point beer or alcoholic  
10 beverages are sold for on-premises consumption.

11 D. No person shall be permitted to maintain an office for  
12 conducting a bail bond business where persons disqualified pursuant  
13 to paragraph 1 of subsection A of this section are present, except  
14 as necessary for such persons to obtain a personal bail bond.

15 E. For purposes of this section, the marriage or cohabitation  
16 of a bail bond licensee or license applicant with a person  
17 disqualified pursuant to subsection A of this section shall not  
18 constitute the receipt of benefits from the execution of a bail  
19 bond. In such circumstances, the receipt of benefits from the  
20 execution of a bail bond shall be subject to a factual determination  
21 by the Commissioner.

22 SECTION 4. AMENDATORY 59 O.S. 2011, Section 1320, as  
23 last amended by Section 10, Chapter 110, O.S.L. 2015 (59 O.S. Supp.  
24 2016, Section 1320), is amended to read as follows:

1 Section 1320. A. No bail bondsman shall become a surety on an  
2 undertaking unless he or she has first registered his or her license  
3 in the office of the sheriff and with the court clerk in the county  
4 in which the bondsman resides or offices, but not both. In the  
5 county in which a bondsman registers his or her license, ~~he~~ the  
6 bondsman shall provide the court clerk with proof that ~~he~~ or she is  
7 a resident of ~~said~~ the county or that ~~he~~ the bondsman offices in  
8 ~~said~~ the county, and shall provide notice to the court clerk in  
9 writing of a change in residence or business address within five (5)  
10 business days after a change. The court clerk of the county shall  
11 provide a list of bondsmen permitted to write bail in that county to  
12 the judges and law enforcement offices of that county. Law  
13 enforcement shall ~~provide the list to any incarcerated individual~~  
14 ~~upon request~~ post the list conspicuously near all telephones used by  
15 prisoners. The list shall be updated and distributed to law  
16 enforcement by the court clerk at least monthly and shall consist of  
17 professional, multicounty agent, property, cash and surety bail  
18 bondsmen. Any surety bondsman without a current surety appointment  
19 shall be removed from the list. In any county not having a licensed  
20 bondsman authorized to do business within ~~said~~ the county, the court  
21 having jurisdiction shall allow and fix bail.

22 B. Notwithstanding the foregoing provisions of this section, a  
23 bondsman may write bonds on no more than ten defendants per year in  
24 each of the remaining seventy-six counties of this state in which



1 the bondsman cannot register his license. Provided, however, a  
2 bondsman shall not be limited to writing bonds on only ten  
3 defendants per year in a county which does not have a licensed  
4 bondsman registered in said county. The bondsman shall advise the  
5 court clerk of each such county in writing of his intention to write  
6 bonds in the county and shall file a certified copy of his license  
7 with such court clerk.

8 C. A surety bondsman shall also file with the court clerk a  
9 certified copy of his or her appointment by power of attorney from  
10 the insurer whom he or she represents as an agent.

11 D. A fee of Twenty Dollars (\$20.00) shall be paid to the court  
12 clerk for each county in which the bail bondsman registers or files  
13 his or her license. The fee shall be payable biennially by the date  
14 of license renewal. The court clerk and the sheriff shall not  
15 permit the registration or filing of a bail bondsman unless such  
16 bondsman is currently licensed by the Insurance Commissioner under  
17 the provisions of Section 1301 et seq. of this title.

18 SECTION 5. AMENDATORY 59 O.S. 2011, Section 1332, as  
19 last amended by Section 1, Chapter 187, O.S.L. 2015 (59 O.S. Supp.  
20 2016, Section 1332), is amended to read as follows:

21 Section 1332. A. If there is a breach of an undertaking, the  
22 court before which the cause is pending shall issue, within ten (10)  
23 days, an arrest warrant for the defendant and declare the  
24 undertaking and any money, property, or securities that have been

1 deposited as bail, forfeited on the day the defendant failed to  
2 appear. Within fifteen (15) days from the date of the forfeiture,  
3 the order and judgment of forfeiture shall be filed with the clerk  
4 of the trial court. Failure to timely issue the arrest warrant or  
5 file the order and judgment of forfeiture as provided in this  
6 subsection shall exonerate the bond by operation of law. In the  
7 event of the forfeiture of a bail bond the clerk of the trial court  
8 shall, within thirty (30) days after the order and judgment of  
9 forfeiture is filed in the court, by mail with return receipt  
10 requested, mail a true and correct copy of the order and judgment of  
11 forfeiture to the bondsman, and if applicable, the insurer, whose  
12 risk it is, and keep at least one copy of the order and judgment of  
13 forfeiture on file; provided, the clerk shall not be required to  
14 mail the order and judgment of forfeiture to the bondsman or insurer  
15 if, within fifteen (15) days from the date of forfeiture, the  
16 defendant is returned to custody, the bond is reinstated by the  
17 court with the bondsman's approval, or the order of forfeiture is  
18 vacated or set aside by the court. Failure of the clerk of the  
19 trial court to comply with the thirty-day notice provision in this  
20 subsection shall exonerate the bond by operation of law.

21 B. The order and judgment of forfeiture shall be on forms  
22 prescribed by the Administrative Director of the Courts.

23 C. 1. The bail bondsman shall have ninety (90) days from  
24 receipt of the order and judgment of forfeiture from the court clerk

1 or mailing of the notice if no receipt is made, to return the  
2 defendant to custody.

3 2. The bondsman may contract with a licensed bail enforcer  
4 pursuant to the Bail Enforcement and Licensing Act to recover and  
5 return the defendant to custody within the ninety-day period, or as  
6 agreed, or notwithstanding the Bail Enforcement and Licensing Act if  
7 the bondsman is duly appointed in this state by an insurer operating  
8 in this state, the bondsman may seek the assistance of another  
9 licensed bondsman in this state who is appointed by the same  
10 insurer.

11 3. When the court record indicates that the defendant is  
12 returned to custody in the jurisdiction where forfeiture occurred,  
13 within the ninety-day period, the court clerk shall enter minutes  
14 vacating the forfeiture and exonerating the bond. If the defendant  
15 has been timely returned to custody, but this fact is not reflected  
16 by the court record, the court shall vacate the forfeiture and  
17 exonerate the bond.

18 4. For the purposes of this section, "return to custody" means:  
19 a. the return of the defendant to the appropriate  
20 Oklahoma law enforcement agency by the bondsman,  
21 b. an appearance of the defendant in open court in the  
22 court where charged,  
23 c. arrest or incarceration within this state of the  
24 defendant by law enforcement personnel, provided the

1 bondsman has requested that a hold be placed on the  
2 defendant in the jurisdiction wherein the forfeiture  
3 lies and has guaranteed reasonable travel expenses for  
4 the return of the defendant, or

- 5 d. arrest or incarceration of the defendant in any other  
6 jurisdiction, provided the bondsman has requested that  
7 a hold be placed on the defendant in the jurisdiction  
8 wherein the forfeiture lies and has guaranteed  
9 reasonable travel expenses for the return of the  
10 defendant.

11 5. In addition to the provisions set forth in paragraphs 3 and  
12 4 of this subsection, the bond shall be exonerated by operation of  
13 law in any case in which:

- 14 a. the bondsman has requested in writing of the sheriff's  
15 department in the county where the forfeiture occurred  
16 that the defendant be entered into the computerized  
17 records of the National Crime Information Center, and  
18 the request has not been honored within fourteen (14)  
19 business days of the receipt of the written request by  
20 the department, ~~or~~
- 21 b. the defendant has been arrested outside of this state  
22 and the court record shows the prosecuting attorney  
23 has declined to proceed with extradition,

1           c. the warrant issued by the court has not been entered  
2           into an active warrant database available to law  
3           enforcement within five (5) business days after its  
4           issued date, or

5           d. the defendant has been arrested on new charges in the  
6           same jurisdiction in which the bondsman or insurer has  
7           posted the appearance bond or bonds for the defendant,  
8           and the defendant has been subsequently released on  
9           his or her own personal recognizance.

10           6. The court may, in its discretion, vacate the order of  
11 forfeiture and exonerate the bond where good cause has been shown  
12 for:

- 13           a. the defendant's failure to appear, or  
14           b. the bondsman's failure to return the defendant to  
15           custody within ninety (90) days.

16           D. 1. If, within ninety (90) days from receipt of the order  
17 and judgment of forfeiture from the court clerk, or mailing of the  
18 notice if no receipt is made, the defendant is not returned to  
19 custody, or the forfeiture has not been stayed, the bondsman and, if  
20 applicable, the insurer whose risk it is shall deposit cash or other  
21 valuable securities in the face amount of the bond with the court  
22 clerk ninety-one (91) days from receipt of the order and judgment of  
23 forfeiture from the court clerk, or mailing of the notice if no  
24 receipt is made; provided, this provision shall not apply if the

1 defendant has been returned to custody within the ninety-day period  
2 and the court has failed to vacate the forfeiture pursuant to  
3 paragraphs 3 through 6 of subsection C of this section.

4 2. After the order and judgment has been paid within ninety-one  
5 (91) days from receipt of the order and judgment of forfeiture from  
6 the court clerk, or mailing of the notice if no receipt is made, as  
7 required in paragraph 1 of this subsection, the bondsman and, if  
8 applicable, the insurer whose risk it is shall have one year from  
9 the date payment is due to return the defendant to custody as  
10 defined by paragraph 4 of subsection C of this section. In the  
11 event the defendant is returned to custody and all expenses for the  
12 defendant's return have been paid by the bondsman or insurer, the  
13 bondsman's or insurer's property shall be returned; provided, the  
14 request for remitter be made by motion filed within one (1) year  
15 from the date payment is due.

16 3. If the additional cash or securities are not deposited with  
17 the court clerk on or before the ninety-first day after the date of  
18 service of the order and judgment of forfeiture from the court  
19 clerk, or mailing of the notice if no receipt is made, then the  
20 court clerk shall notify the Insurance Commissioner by sending a  
21 certified copy of the order and judgment of forfeiture and proof  
22 that the bondsman and, if applicable, the insurer have been notified  
23 by mail with return receipt requested.

24 4. The Insurance Commissioner shall:

1 a. in the case of a surety bondsman, immediately cancel  
2 the license privilege and authorization of the insurer  
3 to do business within the State of Oklahoma and cancel  
4 the appointment of all surety bondsman agents of the  
5 insurer who are licensed by Section 1301 et seq. of  
6 this title, and

7 b. in the case of a professional bondsman, withdraw the  
8 face amount of the forfeiture from the deposit  
9 provided in Section 1306 of this title. The  
10 Commissioner shall then immediately direct the  
11 professional bondsman, by mail with return receipt  
12 requested, to make additional deposits to bring the  
13 original deposit to the required level. Should the  
14 professional bondsman, after being notified, fail to  
15 make an additional deposit within ten (10) days from  
16 the receipt of notice, or mailing of notice if no  
17 receipt is made, the license shall be revoked and all  
18 sums presently on deposit shall be held by the  
19 Commissioner to secure the face amounts of bonds  
20 outstanding. Upon release of the bonds, any amount of  
21 deposit in excess of the bonds shall be returned to  
22 the bondsman; provided, the bail bondsman shall have  
23 had notice as required by the court, at the place of  
24 the bondsman's business, of the trial or hearing of

1 the defendant named in the bond. The notice shall  
2 have been at least ten (10) days before the required  
3 appearance of the defendant, unless the appearance is  
4 scheduled at the time of execution of the bond.

5 Notwithstanding the foregoing, the bondsman shall be  
6 deemed to have had notice of the trial or hearing if  
7 the defendant named in the bond shall have been  
8 recognized back in open court to appear at a date  
9 certain for the trial or hearing.

10 5. If the actions of any bail bondsman force the Insurance  
11 Commissioner to withdraw monies, deposited pursuant to Section 1306  
12 of this title, to pay past due executions more than two (2) times in  
13 a consecutive twelve-month period, then the license of the  
14 professional bondsman shall, in addition to other penalties, be  
15 suspended automatically for one (1) year or until a deposit equal to  
16 all outstanding forfeitures due is made. The deposit shall be  
17 maintained until the Commissioner deems it feasible to reduce the  
18 deposit. In no case shall an increased deposit exceed two (2) years  
19 unless there is a recurrence of withdrawals as stated herein.

20 E. 1. If the defendant's failure to appear was the result of  
21 the defendant's death or of being in the custody of a court other  
22 than the court in which the appearance was scheduled, forfeiture  
23 shall not lie. Upon proof to the court that the bondsman paid the  
24 order and judgment of forfeiture without knowledge that the



1 defendant was deceased or in custody of another court on the day the  
2 defendant was due to appear, and all expenses for the defendant's  
3 return have been paid by the bondsman, the bondsman's property shall  
4 be returned.

5 2. Where the defendant is in the custody of another court, the  
6 district attorney or municipal attorney shall direct a hold order to  
7 the official, judge, court or law enforcement agent wherein the  
8 defendant is in custody; provided, that all expenses accrued as a  
9 result of returning the custody of the defendant shall be borne by  
10 the bondsman.

11 F. The district attorney or municipal attorney shall not  
12 receive any bonuses or other monies or property for or by reason of  
13 services or actions in connection with or collection of bond  
14 forfeitures under the provisions of Section 1301 et seq. of this  
15 title, except that the court may award a reasonable attorney fee in  
16 favor of the prevailing party for legal services in any civil action  
17 or proceeding to collect upon a judgment of forfeiture.

18 G. The above procedures shall be subject to the bondsman's  
19 rights of appeal. The bondsman or insurer may appeal an order and  
20 judgment of forfeiture pursuant to the procedures for appeal set  
21 forth in Section 951 et seq. of Title 12 of the Oklahoma Statutes.  
22 To stay the execution of the order and judgment of forfeiture, the  
23 bondsman or insurer shall comply with the provisions set forth in  
24 Section 990.4 of Title 12 of the Oklahoma Statutes.

1 H. For municipal courts of record, the above procedures are  
2 criminal in nature and ancillary to the criminal procedures before  
3 the trial court and shall be subject to the bondsman's right of  
4 appeal. The bondsman or insurer may appeal an order and judgment of  
5 forfeiture by the municipal courts of record to the Court of  
6 Criminal Appeals.

7 I. Upon a motion to the court, any person executing a bail bond  
8 as principal or as surety shall be exonerated after three (3) years  
9 have elapsed from the posting of the bond, unless a judgment has  
10 been entered against the surety or the principal for the forfeiture  
11 of the bond, or unless the court grants an extension of the three-  
12 year time period for good cause shown, upon motion by the  
13 prosecuting attorney.

14 SECTION 6. This act shall become effective November 1, 2017.

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16 56-1-5481 LRB 01/11/17

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