

1 **SENATE FLOOR VERSION**

2 April 7, 2016

3 ENGROSSED HOUSE  
4 BILL NO. 2922

By: Kirby of the House

and

Sparks of the Senate

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7  
8 An Act relating to bail bonds; amending 59 O.S. 2011,  
9 Sections 1301, as amended by Section 1, Chapter 53,  
10 O.S.L. 2014, 1302, 1306, as last amended by Section  
11 1, Chapter 110, O.S.L. 2015, Section 3, Chapter 53,  
12 O.S.L. 2014, as amended by Section 2, Chapter 110,  
13 O.S.L. 2015, and as renumbered by Section 13, Chapter  
14 110, O.S.L. 2015, 1310, as last amended by Section 4,  
15 Chapter 110, O.S.L. 2015, 1311.3, as last amended by  
16 Section 5, Chapter 110, O.S.L. 2015, Section 13,  
17 Chapter 373, O.S.L. 2014, 1314, as last amended by  
18 Section 6, Chapter 110, O.S.L. 2015, 1316, as last  
19 amended by Section 8, Chapter 110, O.S.L. 2015, 1317,  
20 as last amended by Section 9, Chapter 110, O.S.L.  
21 2015 and 1328, as amended by Section 24, Chapter 407,  
22 O.S.L. 2013 (59 O.S. Supp. 2015, Sections 1301, 1306,  
23 1306.1, 1310, 1311.3, 1311.4, 1314, 1316, 1317 and  
24 1328), which relate to the licensing and regulation  
of bail bondsmen; updating statutory citations;  
modifying certain definitions; clarifying certain  
investigation requirement; adding requirement for  
professional bail bondsman license; clarifying  
circumstances that allow for a license to be denied,  
suspended or revoked; modifying exception to certain  
prohibited act; modifying requirements that allow a  
bondsman to receive assistance from another bondsman;  
modifying references to specified bondsmen; providing  
time limitation for the retention of certain records;  
directing bondsmen to provide certain documentation  
for appearance bonds; deleting certain requirement  
for issuing receipts; clarifying procedures relating  
to appointment forms; requiring bondsmen to possess  
bail bondsman license when apprehending or

1           surrendering defendants; and providing an effective  
2           date.

3  
4 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

5           SECTION 1.           AMENDATORY           59 O.S. 2011, Section 1301, as  
6 amended by Section 1, Chapter 53, O.S.L. 2014 (59 O.S. Supp. 2015,  
7 Section 1301), is amended to read as follows:

8           Section 1301. A. Sections 1301 through ~~1340~~ 1341 of this title  
9 shall only apply to the regulation of bail bonds for crimes, the  
10 punishment of which may be in excess of Twenty Dollars (\$20.00) fine  
11 or twenty (20) days in jail, or both such fine and imprisonment.

12           B. As used in Sections 1301 through ~~1340~~ 1341 of this title:

13           1. "Commissioner" means the Insurance Commissioner of the State  
14 of Oklahoma;

15           2. "Clerk" means the district or municipal court clerk;

16           3. "Insurer" means any domestic, foreign or alien surety  
17 company which has qualified generally to transact surety business  
18 and specifically to transact bail bond business in this state and  
19 any professional bondsman or multicounty agent bondsman;

20           4. "Bail bondsman" means a surety bondsman, professional  
21 bondsman, multicounty agent bondsman, property bondsman, or a cash  
22 bondsman as hereinafter defined;

23           5. "Surety bondsman" means any person who has been approved by  
24 the Commissioner and appointed by an insurer ~~or a professional~~

1 ~~bondsman~~, by power of attorney~~7~~, to execute or countersign bail bonds  
2 for the insurer ~~or a professional bondsman~~, in connection with  
3 judicial proceedings and charges and receives money for his or her  
4 services;

5 6. "Managing general agent" (M.G.A.) means any person acting in  
6 the capacity of supervisor or manager over a licensed bondsman, who  
7 has been granted the authority or responsibility by ~~a surety company~~  
8 an insurer to conduct surety business on its behalf, and to oversee  
9 the activities and conduct of the ~~surety's~~ appointed licensed  
10 bondsman agents of the insurer, and who generally functions as an  
11 intermediate manager between the ~~surety~~ insurer and its licensed  
12 bondsman agents. A managing general agent fulfilling these  
13 functions shall be a natural person, shall meet the qualifications  
14 of paragraph 5 of this subsection and shall be licensed as a  
15 bondsman;

16 7. "Professional bondsman" means any person who has been  
17 approved by the Commissioner and who pledges cash as security for a  
18 bail bond in connection with a judicial proceeding and charges and  
19 receives money for his or her services;

20 8. "Property bondsman" means any person who has been approved  
21 by the Commissioner and who pledges real property as security for a  
22 bail bond in a judicial proceeding and charges and receives money  
23 for his or her services;

24

1           9. "Cash bondsman" means any person who has been approved by  
2 the Commissioner and who deposits cash money as security for a bail  
3 bond in a judicial proceeding and charges and receives money for his  
4 or her services;

5           10. "Escrow deposit" means cash or valuable security deposited  
6 by an insurer ~~of a surety bondsman or professional bondsman~~ to  
7 secure the face amount of forfeiture pending appeal;

8           11. "Solicitation" means to ask for earnestly, seek to obtain  
9 by persuasion or entreaty, implore, beseech, tempt or entice a  
10 person directly or through another person by personal, mechanical,  
11 printed or published means to purchase a bail bond. Solicitation  
12 shall not include mass communication advertising, which shall  
13 include, but not be limited to, television, newspapers, magazines  
14 and billboards;

15           12. "Bond" means an appearance bond for a specified monetary  
16 amount which is executed by the defendant and a licensed bondsman  
17 pursuant to the provisions of Section 1301 et seq. of this title and  
18 which is issued to a court clerk as security for the subsequent  
19 court appearance of the defendant upon release from actual custody  
20 pending the appearance; and

21           13. "Multicounty agent bondsman" means a professional bondsman  
22 who has been approved by the Commissioner and who otherwise complies  
23 with the provisions of Section ~~1306~~ 1306.1 of this title.

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1 SECTION 2. AMENDATORY 59 O.S. 2011, Section 1302, is  
2 amended to read as follows:

3 Section 1302. A. The Insurance Commissioner shall have full  
4 power and authority to administer the provisions of this act, which  
5 regulates bail bondsmen and to that end to adopt, and promulgate  
6 rules and regulations to enforce the purposes and provisions of this  
7 act. The Commissioner may employ and discharge such employees,  
8 examiners, counsel, and such other assistants as shall be deemed  
9 necessary, and he shall prescribe their duties and their  
10 compensation shall be the same as other state employees receive for  
11 similar services.

12 B. Any written instrument purporting to be a copy of any  
13 action, proceeding, or finding of fact by the Commissioner, or any  
14 record of the seal of his office shall be accepted by all the courts  
15 of this state as prima facie evidence of the contents thereof.

16 C. ~~Open and ongoing investigative~~ Investigative files shall not  
17 be open for review unless so ordered by a proper administrative  
18 order of the hearing examiner or Commissioner or by proper judicial  
19 order or legislative committee.

20 SECTION 3. AMENDATORY 59 O.S. 2011, Section 1306, as  
21 last amended by Section 1, Chapter 110, O.S.L. 2015 (59 O.S. Supp.  
22 2015, Section 1306), is amended to read as follows:

23 Section 1306. A. 1. An applicant for a cash bondsman license  
24 shall meet all requirements set forth in Section 1305 of this title

1 with exception of the one-year residence requirement. An applicant  
2 for a cash bondsman license shall affirmatively show that the  
3 applicant has been a bona fide resident of the state for six (6)  
4 months.

5 2. In addition to the requirements prescribed in Section 1305  
6 of this title, an applicant for a professional bondsman license  
7 shall have been continually licensed as a surety, cash or property  
8 bondsman in the State of Oklahoma for a minimum of two (2) years  
9 immediately prior to the date of application and shall submit to the  
10 Insurance Commissioner an audited financial statement prepared by an  
11 accounting firm or individual holding a permit to practice public  
12 accounting in this state in accordance with the Statements on  
13 Auditing Standards promulgated by the Auditing Standards Board of  
14 the American Institute of Certified Public Accountants setting forth  
15 the total assets of the bondsman less liabilities and debts as  
16 follows: For all applications made prior to November 1, 2006, and  
17 the subsequent renewals of a license issued upon the application  
18 when continuously maintained in effect as required by law, the  
19 statement shall show a net worth of at least Fifty Thousand Dollars  
20 (\$50,000.00). For all applications made on and after November 1,  
21 2006, and the subsequent renewals of a license issued upon the  
22 application when continuously maintained in effect as required by  
23 law, or for the renewal or reinstatement of any license that is  
24 expired pursuant to subsection D of Section 1309 of this title,

1 suspended or revoked, the statement shall show a net worth of at  
2 least One Hundred Fifty Thousand Dollars (\$150,000.00), the  
3 statements to be current as of a date not earlier than ninety (90)  
4 days prior to submission of the application and the statement shall  
5 be attested to by an unqualified opinion of the accountant.

6 3. Professional bondsman applicants shall make a deposit with  
7 the Insurance Commissioner in the same manner as required of  
8 domestic insurance companies of an amount to be determined by the  
9 Commissioner. For all applications made prior to November 1, 2006,  
10 and the subsequent renewals of a license issued upon the application  
11 when continuously maintained in effect as required by law, the  
12 deposit shall not be less than Twenty Thousand Dollars (\$20,000.00).  
13 For all applications made on and after November 1, 2006, and the  
14 subsequent renewals of a license issued upon the application when  
15 continuously maintained in effect as required by law, or for the  
16 renewal or reinstatement of any license that is expired pursuant to  
17 subsection D of Section 1309 of this title, suspended or revoked,  
18 the deposit shall not be less than Fifty Thousand Dollars  
19 (\$50,000.00). The deposits shall be subject to all laws, rules and  
20 regulations as deposits by domestic insurance companies but in no  
21 instance shall a professional bondsman write bonds which equal more  
22 than ten times the amount of the deposit which the bondsman has  
23 submitted to the Commissioner. Such deposit shall require the  
24 review and approval of the Insurance Commissioner prior to exceeding

1 the maximum amount of Federal Deposit Insurance Corporation basic  
2 deposit coverage for any one bank or financial institution. In  
3 addition, a professional bondsman may make the deposit by purchasing  
4 an annuity through a licensed domestic insurance company in the  
5 State of Oklahoma. The annuity shall be in the name of the bondsman  
6 as owner with legal assignment to the Insurance Commissioner. The  
7 assignment form shall be approved by the Commissioner. If a  
8 bondsman exceeds the above limitation, the bondsman shall be  
9 notified by the Commissioner that the excess shall be reduced or the  
10 deposit increased within ten (10) days of notification, or the  
11 license of the bondsman shall be suspended immediately after the  
12 ten-day period, pending a hearing on the matter.

13 4. The deposit provided for in this section shall constitute a  
14 reserve available to meet sums due on forfeiture of any bonds or  
15 recognizance executed by the bondsman.

16 5. Any deposit made by a professional bondsman pursuant to this  
17 section shall be released and returned by the Commissioner to the  
18 professional bondsman only upon extinguishment of all liability on  
19 outstanding bonds. Provided, however, the Commissioner shall have  
20 the authority to review specific financial circumstances and history  
21 of a professional bondsman, on a case-by-case basis, and may release  
22 a portion of the deposit if warranted. The Commissioner may  
23 promulgate rules to effectuate the provisions of this paragraph.

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1           6. No release of deposits to a professional bondsman shall be  
2 made by the Commissioner except upon written application and the  
3 written order of the Commissioner. The Commissioner shall have no  
4 liability for any such release to a professional bondsman provided  
5 the release was made in good faith.

6           B. The deposit provided in this section shall be held in  
7 safekeeping by the Insurance Commissioner and shall only be used if  
8 a bondsman fails to pay an order and judgment of forfeiture after  
9 being properly notified or shall be used if the license of a  
10 professional bondsman has been revoked. The deposit shall be held  
11 in the name of the Insurance Commissioner and the bondsman. The  
12 bondsman shall execute an assignment or pledge of the deposit to the  
13 Insurance Commissioner for the payment of unpaid bond forfeitures.

14           C. Currently licensed professional bondsmen may maintain their  
15 aggregate liability limits upon presentation of documented proof  
16 that they have previously been granted a limitation greater than the  
17 requirements of subsection A of this section.

18           D. Notwithstanding any other provision of Sections 1301 through  
19 ~~1340~~ 1341 of this title, the license of a professional bondsman is  
20 transferable upon the death or legal or physical incapacitation of  
21 the bondsman to the spouse of the bondsman, or to such other  
22 transferee as the professional bondsman may designate in writing,  
23 and the transferee may elect to act as a professional bondsman for a  
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1 period of one hundred eighty (180) days if the following conditions  
2 are met:

3 1. The transferee shall hold a valid license as a surety  
4 bondsman in this state; and

5 2. The asset and deposit requirements set forth in this section  
6 continue to be met.

7 SECTION 4. AMENDATORY Section 3, Chapter 53, O.S.L.  
8 2014, as amended by Section 2, Chapter 110, O.S.L. 2015, and as  
9 renumbered by Section 13, Chapter 110, O.S.L. 2015 (59 O.S. Supp.  
10 2015, Section 1306.1), is amended to read as follows:

11 Section 1306.1 A. 1. An applicant for a multicounty agent  
12 bondsman license shall have been continually licensed as a  
13 professional bondsman in the State of Oklahoma for a minimum of two  
14 (2) years immediately prior to the date of application.

15 2. In addition to the requirements prescribed in Sections 1305  
16 and 1306 of this title, an applicant for a multicounty agent  
17 bondsman license shall submit to the Insurance Commissioner an  
18 annual audited financial statement prepared by an accounting firm or  
19 individual holding a permit to practice public accounting in this  
20 state in accordance with the Statements on Auditing Standards  
21 promulgated by the Auditing Standards Board of the American  
22 Institute of Certified Public Accountants setting forth the total  
23 assets of the bondsman less liabilities and debts. For initial  
24 applications and for subsequent renewals of the license, the

1 statement shall show a net worth of at least Two Hundred Fifty  
2 Thousand Dollars (\$250,000.00). The statement shall be current as  
3 of a date not earlier than ninety (90) days prior to submission of  
4 the application and the statement shall be attested to by an  
5 unqualified opinion of the accountant.

6 3. Multicounty agent bondsman applicants shall make a deposit  
7 with the Insurance Commissioner in the same manner as required of  
8 domestic insurance companies. The deposit shall not be less than  
9 One Hundred Thousand Dollars (\$100,000.00). Provided however, any  
10 and all deposits made pursuant to paragraph 3 of subsection A of  
11 Section 1306 of this title shall count toward the fulfillment of any  
12 deposit amount required by this section. The deposit shall be  
13 subject to all laws, rules, and regulations as deposits by domestic  
14 insurance companies but in no instance, except as provided herein,  
15 shall a multicounty agent bondsman write bonds which equal more than  
16 twelve times the amount of the deposit which the bondsman has  
17 submitted to the Commissioner; provided however, any currently  
18 licensed professional bondsman in good standing with the Department  
19 and who, on the effective date of this act, meets the provisions of  
20 the grandfather clause set forth in Section 1306 of this title and  
21 who otherwise meets the requirements of this section shall be  
22 afforded the same liability ratio as that of such grandfathered  
23 professional bondsman. Such deposit shall require the review and  
24 approval of the Insurance Commissioner prior to exceeding the

1 maximum amount of Federal Deposit Insurance Corporation basic  
2 deposit coverage for any one bank or financial institution. In  
3 addition, a multicounty agent bondsman may make the deposit by  
4 purchasing an annuity through a licensed domestic insurance company  
5 in the State of Oklahoma. The annuity shall be in the name of the  
6 bondsman as owner with legal assignment to the Insurance  
7 Commissioner. The assignment form shall be approved by the  
8 Commissioner. If a bondsman exceeds the above limitation, the  
9 bondsman shall be notified by the Commissioner that the excess shall  
10 be reduced or the deposit increased within ten (10) days of  
11 notification, or the license of the bondsman shall be suspended  
12 immediately after the ten-day period, pending a hearing on the  
13 matter.

14 4. The deposit provided for in this section shall constitute a  
15 reserve available to meet sums due on forfeiture of any bonds or  
16 recognizance executed by the bondsman.

17 5. Any deposit made by a multicounty agent bondsman pursuant to  
18 this section shall be released and returned by the Commissioner to  
19 the multicounty agent bondsman only upon extinguishment of all  
20 liability on outstanding bonds. Provided, however, the Commissioner  
21 shall have the authority to review specific financial circumstances  
22 and history of a multicounty agent bondsman, on a case-by-case  
23 basis, and may release a portion of the deposit if warranted. The  
24

1 Commissioner may promulgate rules to effectuate the provisions of  
2 this paragraph.

3 6. No release of deposits to a multicounty agent bondsman shall  
4 be made by the Commissioner except upon written application and the  
5 written order of the Commissioner. The Commissioner shall have no  
6 liability for any such release to a multicounty agent bondsman  
7 provided the release was made in good faith.

8 B. The deposit provided in this section shall be held in  
9 safekeeping by the Insurance Commissioner and shall only be used if  
10 a bondsman fails to pay an order and judgment of forfeiture after  
11 being properly notified or shall be used if the license of a  
12 multicounty agent bondsman has been revoked. The deposit shall be  
13 held in the name of the Insurance Commissioner and the bondsman.  
14 The bondsman shall execute an assignment or pledge of the deposit to  
15 the Insurance Commissioner for the payment of unpaid bond  
16 forfeitures.

17 C. Notwithstanding any other provision of Sections 1301 through  
18 ~~1340~~ 1341 of this title, the license of a multicounty agent bondsman  
19 is transferable upon the death or legal or physical incapacitation  
20 of the bondsman to the spouse of the bondsman or to such other  
21 transferee as the multicounty agent bondsman may designate in  
22 writing, and the transferee may elect to act as a multicounty agent  
23 bondsman for a period of one hundred eighty (180) days if the  
24 following conditions are met:

1        1. The transferee shall hold a valid license as a surety  
2 bondsman in this state; and

3        2. The asset and deposit requirements set forth in this section  
4 continue to be met.

5        At the end of the one-hundred-eighty-day period, the transferee  
6 shall be allowed to apply for a license as a multicounty agent  
7 bondsman, provided he or she has been continually licensed as a  
8 surety bondsman for at least five (5) years immediately prior to the  
9 date of application, notwithstanding the requirements of paragraph 1  
10 of subsection A of this section.

11        D. A multicounty agent bondsman may appoint by power of  
12 attorney a licensed surety bondsman as his or her agent to execute  
13 bail bonds within any county in the State of Oklahoma. The number  
14 of bail bonds a multicounty agent bondsman may insure in counties  
15 other than the county he or she registers his or her license,  
16 pursuant to subsection A of Section 1320 of this title, shall not be  
17 limited by subsection B of Section 1320 of this title.

18        SECTION 5.        AMENDATORY        59 O.S. 2011, Section 1310, as  
19 last amended by Section 4, Chapter 110, O.S.L. 2015 (59 O.S. Supp.  
20 2015, Section 1310), is amended to read as follows:

21        Section 1310. A. The Insurance Commissioner may deny, censure,  
22 suspend, revoke, or refuse to renew any license issued under  
23 Sections 1301 through ~~1340~~ 1341 of this title for any of the  
24 following causes:

- 1        1. For any cause for which issuance of the license could have  
2 been refused;
- 3        2. Violation of any laws of this state or any lawful rule,  
4 regulation, or order of the Commissioner relating to bail;
- 5        3. Material misstatement, misrepresentation, or fraud in  
6 obtaining the license;
- 7        4. Misappropriation, conversion, or unlawful withholding of  
8 monies or property belonging to insurers, insureds, or others  
9 received in the conduct of business under the license;
- 10       5. Conviction of, or having entered a plea of guilty or nolo  
11 contendere to, any felony or to a misdemeanor involving moral  
12 turpitude or dishonesty;
- 13       6. Fraudulent or dishonest practices or demonstrating financial  
14 irresponsibility in conducting business under the license;
- 15       7. Failure to comply with, or violation of any proper order,  
16 rule, or regulation of the Commissioner;
- 17       8. Recommending any particular attorney-at-law to handle a case  
18 in which the bail bondsman has caused a bond to be issued under the  
19 terms of Sections 1301 through ~~1340~~ 1341 of this title;
- 20       9. When, in the judgment of the Commissioner, the licensee has,  
21 in the conduct of affairs under the license, demonstrated  
22 incompetency, or untrustworthiness, or conduct or practices  
23 rendering the licensee unfit to carry on the bail bond business or  
24

1 making continuance in the business detrimental to the public  
2 interest;

3 10. When the licensee is no longer in good faith carrying on  
4 the bail bond business;

5 11. When the licensee is guilty of rebating, or offering to  
6 rebate, or dividing with someone other than a licensed bail  
7 bondsman, or offering to divide commissions in the case of limited  
8 surety agents, or premiums in the case of professional bondsmen, and  
9 for this conduct is found by the Commissioner to be a source of  
10 detriment, injury, or loss to the public;

11 12. For any materially untrue statement in the license  
12 application;

13 13. Misrepresentation of the terms of any actual or proposed  
14 bond;

15 14. For forging the name of another to a bond or application  
16 for bond;

17 15. Cheating on an examination for licensure;

18 16. Soliciting business in or about any place where prisoners  
19 are confined, arraigned, or in custody;

20 17. For paying a fee or rebate, or giving or promising anything  
21 of value to a jailer, trustee, police officer, law enforcement  
22 officer, or other officer of the law, or any other person who has  
23 power to arrest or hold in custody, or to any public official or  
24 public employee in order to secure a settlement, compromise,



1 remission, or reduction of the amount of any bail bond or  
2 estreatment thereof, or to secure delay or other advantage. This  
3 shall not apply to a jailer, police officer, or officer of the law  
4 who is not on duty and who assists in the apprehension of a  
5 defendant;

6 18. For paying a fee or rebating or giving anything of value to  
7 an attorney in bail bond matters, except in defense of an action on  
8 a bond;

9 19. For paying a fee or rebating or giving or promising  
10 anything of value to the principal or anyone in the behalf of the  
11 principal;

12 20. Participating in the capacity of an attorney at a trial or  
13 hearing for one on whose bond the licensee is surety;

14 21. Accepting anything of value from a principal, other than  
15 the premium; provided, the bondsman shall be permitted to accept  
16 collateral security or other indemnity from the principal which  
17 shall be returned immediately upon final termination of liability on  
18 the bond and upon satisfaction of all terms, conditions, and  
19 obligations contained within the indemnity agreement; provided,  
20 however, a bondsman shall not refuse to return collateral or other  
21 indemnity because of nonpayment of premium. Collateral security or  
22 other indemnity required by the bondsman shall be reasonable in  
23 relation to the amount of the bond;

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1       22. Willful failure to return collateral security to the  
2 principal when the principal is entitled thereto;

3       23. For failing to notify the Commissioner of a change of legal  
4 name, residence address, business address, mailing address, e-mail  
5 address, or telephone number within five (5) days after a change is  
6 made, or failing to respond to a properly mailed notification within  
7 a reasonable amount of time;

8       24. For failing to file a report as required by Section 1314 of  
9 this title;

10       25. For filing a materially untrue monthly report;

11       26. For filing false affidavits regarding cancellation of the  
12 appointment of an insurer;

13       27. Forcing the Commissioner to withdraw deposited monies to  
14 pay forfeitures or any other outstanding judgments;

15       28. For failing to pay any fees to a district court clerk as  
16 are required by this title or failing to pay any fees to a municipal  
17 court clerk as are required by this title or by Section 28-127 of  
18 Title 11 of the Oklahoma Statutes;

19       29. For uttering an insufficient or uncollected check or  
20 electronic funds transfer to the Insurance Commissioner for any  
21 fees, fines or other payments received by the Commissioner from the  
22 bail bondsman;

23       30. For failing to pay travel expenses for the return of the  
24 defendant to custody once having guaranteed the travel expenses;

1 31. The Commissioner may also refuse to renew a licensed  
2 bondsman for failing to file all outstanding monthly bail reports,  
3 pay any outstanding fines, pay any outstanding monthly report  
4 reviewal fees owed to the Commissioner, or respond to a current  
5 order issued by the Commissioner;

6 32. For failing to accept or claim a certified mailing from the  
7 Insurance Department, or from any district or municipal court clerk  
8 addressed to the ~~bondsman's~~ mailing address of the bondsman on file  
9 with the Insurance Department; and

10 33. For posting a bond for any defendant without first  
11 obtaining a written or oral agreement with the defendant or cosigner  
12 of the bond.

13 B. In addition to any applicable denial, censure, suspension,  
14 or revocation of a license, any person violating any provision of  
15 Sections 1301 through ~~1340~~ 1341 of this title may be subject to a  
16 civil penalty of not less than Two Hundred Fifty Dollars (\$250.00)  
17 nor more than Two Thousand Five Hundred Dollars (\$2,500.00) for each  
18 occurrence. This fine may be enforced in the same manner in which  
19 civil judgments may be enforced. Any order for civil penalties  
20 entered by the Commissioner or authorized decision-maker for the  
21 Insurance Department which has become final may be filed with the  
22 court clerk of Oklahoma County and shall then be enforced by the  
23 judges of Oklahoma County.

1 C. No bail bondsman or bail bond agency shall advertise as or  
2 hold itself out to be a surety company.

3 D. If any bail bondsman is convicted by any court of a  
4 violation of any of the provisions of this act, the license of the  
5 individual shall therefore be deemed to be immediately revoked,  
6 without any further procedure relative thereto by the Commissioner.

7 E. For one (1) year after notification by the Commissioner of  
8 an alleged violation, or for two (2) years after the last day the  
9 person was licensed, whichever is the lesser period of time, the  
10 Commissioner shall retain jurisdiction as to any person who cancels  
11 his bail bondsman's license or allows the license to lapse, or  
12 otherwise ceases to be licensed, if the person while licensed as a  
13 bondsman allegedly violated any provision of this title. Notice and  
14 opportunity for hearing shall be conducted in the same manner as if  
15 the person still maintained a bondsman's license. If the  
16 Commissioner or a hearing examiner determines that a violation of  
17 the provisions of Sections 1301 through ~~1340~~ 1341 of this title  
18 occurred, any order issued pursuant to the determination shall  
19 become a permanent record in the file of the person and may be used  
20 if the person should request licensure or reinstatement.

21 F. Any law enforcement agency, district attorney's office,  
22 court clerk's office, or insurer that is aware that a licensed bail  
23 bondsman has been convicted of or has pleaded guilty or nolo  
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1 | contendere to any crime shall notify the Insurance Commissioner of  
2 | that fact.

3 | SECTION 6. AMENDATORY 59 O.S. 2011, Section 1311.3, as  
4 | last amended by Section 5, Chapter 110, O.S.L. 2015 (59 O.S. Supp.  
5 | 2015, Section 1311.3), is amended to read as follows:

6 | Section 1311.3 A. It shall be unlawful for any person whose  
7 | license to act as a bail bondsman has been suspended, revoked,  
8 | surrendered, or refused, to do or perform any of the acts of a bail  
9 | bondsman. Any person convicted of violating the provisions of this  
10 | subsection shall be guilty of a felony and shall be punished by a  
11 | fine in an amount not exceeding Five Thousand Dollars (\$5,000.00).

12 | B. It shall be unlawful for any bail bondsman to assist, aid,  
13 | or conspire with a person whose license as a bail bondsman has been  
14 | suspended, revoked, surrendered, or refused, to engage in any acts  
15 | as a bail bondsman. Any person convicted of violating the  
16 | provisions of this subsection shall be guilty of a felony and shall  
17 | be punished by a fine in an amount not to exceed Five Thousand  
18 | Dollars (\$5,000.00).

19 | C. The provisions of this section shall not apply to a ~~person~~  
20 | ~~whose~~ suspended or formerly licensed bail bondsman ~~license is~~  
21 | ~~suspended or revoked in this state and who~~ continues to submit  
22 | monthly reports to the Insurance Department pursuant to subsection B  
23 | of Section 1314 of this title or who contracts with a licensed bail  
24 | enforcer pursuant to the Bail Enforcement and Licensing Act to cause

1 the apprehension and surrender of his or her defendant clients to  
2 the appropriate authority. The defendant client must have a current  
3 undertaking or bail contract with the ~~person whose~~ suspended or  
4 formerly licensed bail bondsman ~~license is suspended or revoked~~ and  
5 such undertaking or bail contract must have been made in this state  
6 by the ~~person whose license is now suspended or revoked~~ suspended or  
7 formerly licensed bail bondsman. No acts other than ~~contracting~~  
8 ~~with a licensed bail enforcer to surrender a defendant client to the~~  
9 ~~appropriate authority~~ those listed in this subsection shall be  
10 authorized or recognized after a bail bondsman ~~license~~ is suspended  
11 or ~~revoked~~ no longer licensed in this state.

12 SECTION 7. AMENDATORY Section 13, Chapter 373, O.S.L.  
13 2014 (59 O.S. Supp. 2015, Section 1311.4), is amended to read as  
14 follows:

15 Section 1311.4 Notwithstanding any provision of the Bail  
16 Enforcement and Licensing Act to the contrary, a licensed ~~bondsman~~  
17 bondsman in this state, for purposes of apprehension and surrender  
18 of his or her defendant client whose undertaking or bail contract  
19 was written by the licensed bondsman, may seek assistance from, or  
20 provide assistance to, another licensed bondsman in this state or  
21 another state ~~for purposes of apprehension and surrender of their~~  
22 ~~defendant client whose undertaking or bail contract was written by~~  
23 ~~the licensed bondsman or a bondsman appointed by an insurer doing~~

24

1 ~~business in this state; provided, the licensed bondsmen have~~  
2 assisting bondsman:

3 1. Has held a continuously valid licensed bail bondsman license  
4 in this state for five (5) or more years beginning the effective  
5 date of this act immediately prior to providing such assistance; or

6 2. Is duly appointed by the same insurer as the licensed  
7 bondsman seeking assistance.

8 The bondsman licensed in this state who is seeking assistance shall  
9 be required to obtain and maintain proof of the ~~other bondsman's~~  
10 valid license of the assisting bondsman and license duration  
11 requirement prior to permitting such ~~person~~ assisting bondsman to  
12 engage in any act requiring a license in this state.

13 SECTION 8. AMENDATORY 59 O.S. 2011, Section 1314, as  
14 last amended by Section 6, Chapter 110, O.S.L. 2015 (59 O.S. Supp.  
15 2015, Section 1314), is amended to read as follows:

16 Section 1314. A. When a bail bondsman or managing general  
17 agent accepts collateral, the bail bondsman or managing general  
18 agent shall give a written receipt for same, and this receipt shall  
19 give in detail a full description of the collateral received. A  
20 description of the collateral shall be listed on the undertaking by  
21 affidavit. All property taken as collateral, whether personal,  
22 intangible or real, shall be receipted for and deemed, for all  
23 purposes, to be in the name of, and for the use and benefit of, the  
24 ~~surety company or licensed professional bondsman or multicounty~~

1 ~~agent bondsman, as the case may be~~ insurer. Every receipt,  
2 encumbrance, mortgage or other evidence of the custody, possession  
3 or claim shall facially indicate that it has been taken or made on  
4 behalf of the ~~surety company or professional bondsman or multicounty~~  
5 ~~agent bondsman~~ insurer through its authorized agent, the individual  
6 licensed bondsman or managing general agent who has transacted the  
7 undertaking with the bond principal. Any mortgage or other  
8 encumbrance against real property taken under the provisions of this  
9 section which does not indicate beneficial ownership of the claim to  
10 be in favor of the ~~surety company or professional bondsman or~~  
11 ~~multicounty agent bondsman~~ insurer shall be deemed to constitute a  
12 cloud on the title to real estate and shall subject the person  
13 filing, or causing same to be filed, in the real estate records of  
14 the county, to a penalty of treble damages or One Thousand Dollars  
15 (\$1,000.00), whichever is greater, in an action brought by the  
16 person, organization or corporation injured thereby. For collateral  
17 taken, or liens or encumbrances taken or made pursuant to the  
18 provisions of this section, the individual bondsman or managing  
19 general agent taking possession of the property or making the lien,  
20 claim or encumbrance shall do so on behalf of the ~~surety company or~~  
21 ~~professional bondsman or multicounty agent bondsman, as the case may~~  
22 ~~be~~ insurer, and the individual licensed bondsman shall be deemed to  
23 act in the capacity of fiduciary in relation to both:  
24



1           1. The principal or other person from whom the property is  
2 taken or claimed against; and

3           2. The ~~surety company or professional bondsman or multicounty~~  
4 ~~agent bondsman~~ insurer whose agent is the licensed bondsman.

5           As fiduciary and bailee for hire, the individual bondsman shall  
6 be liable in criminal or civil actions at law for failure to  
7 properly receipt or account for, maintain or safeguard, release or  
8 deliver possession upon lawful demand, in addition to any other  
9 penalties set forth in this subsection. No person who takes  
10 possession of property as collateral pursuant to this section shall  
11 use or otherwise dissipate the asset, or do otherwise with the  
12 property than to safeguard and maintain its condition pending its  
13 return to its lawful owner, or deliver to the ~~surety company or~~  
14 ~~professional bondsman~~ insurer, upon lawful demand pursuant to the  
15 terms of the bailment.

16           B. Every licensed bondsman shall file monthly electronically  
17 with the Insurance Commissioner and on forms approved by the  
18 Commissioner as follows:

19           1. A monthly report showing every bond written, amount of bond,  
20 whether released or revoked during each month, showing the court and  
21 county, and the style and number of the case, premiums charged and  
22 collateral received; and

23           2. Professional bondsmen and multicounty agent bondsmen shall  
24 submit electronic monthly reports showing total current liabilities,

1 all bonds written during the month by the professional bondsman or  
2 multicounty agent bondsman and by any licensed bondsman who may  
3 countersign for the professional bondsman or multicounty agent  
4 bondsman, all bonds terminated during the month, and the total  
5 liability and a list of all bondsmen currently employed by the  
6 professional bondsman or multicounty agent bondsman.

7 Monthly reports shall be submitted electronically to the  
8 Insurance Commissioner by the fifteenth day of each month. The  
9 records shall be maintained by the Commissioner as public records.

10 C. Every licensee shall keep at the place of business of the  
11 licensee the usual and customary records pertaining to transactions  
12 authorized by the license. All of the records shall be available  
13 and open to the inspection of the Commissioner at any time during  
14 business hours during the three (3) years immediately following the  
15 date of the transaction liability of the bondsman on the bond is  
16 discharged by the court or the date collateral is returned by the  
17 bondsman to its lawful owner, whichever is later. If an appearance  
18 bond is never executed and filed with the court, then all records  
19 shall be maintained for three (3) years immediately following the  
20 date the documents were prepared. The Commissioner may require a  
21 financial examination or market conduct survey during any  
22 investigation of a licensee.

23 D. Each bail bondsman shall submit each month with the monthly  
24 report of the bondsman, a reviewal fee equal to two-tenths of one

1 percent (2/10 of 1%) of the new liability written for that month.  
2 The fee shall be payable to the Insurance Commissioner who shall  
3 deposit same with the State Treasurer.

4 SECTION 9. AMENDATORY 59 O.S. 2011, Section 1316, as  
5 last amended by Section 8, Chapter 110, O.S.L. 2015 (59 O.S. Supp.  
6 2015, Section 1316), is amended to read as follows:

7 Section 1316. A. 1. A bail bondsman shall neither sign nor  
8 countersign in blank any bond, nor shall the bondsman give a power  
9 of attorney to, or otherwise authorize, anyone to countersign the  
10 name of the bail bondsman to bonds unless the person so authorized  
11 is a licensed surety bondsman or managing general agent appointed by  
12 a licensed professional bondsman or multicounty agent bondsman  
13 giving the power of attorney. The professional bondsman or  
14 multicounty agent bondsman shall notify the Commissioner whenever  
15 any appointment is canceled. If the bondsman surrenders the  
16 professional or multicounty agent bondsman qualification, or the  
17 professional or multicounty agent bondsman qualification is  
18 suspended or revoked, or if ~~an insurer~~ a surety company authorized  
19 to write bail bond business surrenders their bail surety line of  
20 authority, or this line of authority is suspended or revoked, then  
21 the Commissioner shall suspend the appointment of all of the bail  
22 agents of the professional bondsman, multicounty agent bondsman or  
23 ~~insurer~~ surety company. The Commissioner shall immediately notify  
24 any bail agent whose license is affected and the court clerk of the

1 agent's resident county upon the suspension or revocation of the  
2 qualification of the professional bondsman or multicounty agent  
3 bondsman or surety company. If the professional or multicounty  
4 agent bondsman qualification or the bail surety line of authority is  
5 reinstated within twenty-four (24) hours, the Commissioner shall not  
6 be required to suspend the bail agent appointments. If the  
7 Commissioner reinstates the professional or multicounty agent  
8 bondsman qualification or the bail surety line of authority within  
9 twenty-four (24) hours, the Commissioner shall also reinstate the  
10 appointment of the bail agents of the professional bondsman,  
11 multicounty agent bondsman or ~~bail insurer~~ surety company. If more  
12 than twenty-four (24) hours elapse following the suspension or  
13 revocation, then the professional bondsman, multicounty agent  
14 bondsman or ~~insurer~~ surety company shall submit new agent  
15 appointments to the Commissioner.

16 2. Bail bondsmen shall not allow other licensed bondsmen to  
17 present bonds that have previously been signed and completed. The  
18 bail bondsman that presents the bond shall sign the form in the  
19 presence of the official that receives the bond.

20 B. Premium charged shall be indicated on the appearance bond  
21 prior to the filing of the bond.

22 C. 1. At the time ~~of~~ he or she receives payment for the  
23 issuance of an appearance bond, a bail bondsman shall provide the  
24

1 payor or indemnitors with a proper receipt and copies of any  
2 agreements executed relating to the appearance bond.

3 2. Any receipt provided by a bondsman shall be individually  
4 numbered and include:

5 a. the precise amount of the fees, premium, collateral,  
6 or other payments received by the bondsman,

7 ~~b. copies of any agreements executed relating to the~~  
8 ~~appearance bond,~~

9 ~~e.~~ the full name of the defendant,

10 ~~d.~~ c. the defendant's case number if it is available, and

11 ~~e.~~ d. full name of the individual(s) presenting the payment.

12 D. All surety bondsmen or managing general agents shall attach  
13 a completed power of attorney to the appearance bond that is filed  
14 with the court clerk on each bond written.

15 E. Any bond written in this state shall contain the name and  
16 last-known mailing address of the bondsman and, if applicable, of  
17 the insurer.

18 SECTION 10. AMENDATORY 59 O.S. 2011, Section 1317, as  
19 last amended by Section 9, Chapter 110, O.S.L. 2015 (59 O.S. Supp.  
20 2015, Section 1317), is amended to read as follows:

21 Section 1317. A. Every ~~surety, professional bondsman or~~  
22 ~~multicounty agent bondsman~~ insurer who appoints a surety bondsman or  
23 managing general agent in the state shall give notice thereof to the  
24 Insurance Commissioner. The filing fee for appointment of each

1 surety bondsman or managing general agent shall be Ten Dollars  
2 (\$10.00), payable to the Commissioner and shall be submitted with  
3 the appointment. The appointment shall remain in effect until the  
4 ~~surety, professional bondsman or multicounty agent bondsman~~ insurer  
5 submits a notice of cancellation to the Commissioner, the license of  
6 the bail bondsman expires, or the Commissioner cancels the  
7 appointment. The Commissioner may cancel a bail surety appointment  
8 if the license of the bondsman is suspended, revoked or nonrenewed.  
9 ~~If the surety changes the liability limitations of the surety~~  
10 ~~bondsman or the managing general agent, or any other provisions of~~  
11 ~~the appointment~~ there is a change in any information submitted by  
12 the insurer on the appointment form, the ~~surety~~ insurer shall submit  
13 an amended appointment form and a filing fee of Ten Dollars (\$10.00)  
14 payable to the Commissioner.

15 B. ~~A surety~~ An insurer terminating the appointment of a surety  
16 bondsman or managing general agent immediately shall file written  
17 notice thereof with the Commissioner, together with a statement that  
18 it has given or mailed notice to the surety bondsman or managing  
19 general agent. The notice filed with the Commissioner shall state  
20 the reasons, if any, for the termination.

21 C. Prior to issuance of a new ~~surety~~ appointment for a surety  
22 bondsman or managing general agent, the bondsman or agent shall file  
23 an affidavit with the Commissioner stating that no forfeitures are  
24 owed to any court, no fines or fees are owed to the Insurance

1 Department, and no premiums or indemnification for forfeitures or  
2 fines are owed to any insurer, insureds, or others received in the  
3 conduct of business under the license. If any statement made on the  
4 affidavit is found by the Commissioner to be false, the Commissioner  
5 may deny the new ~~surety~~ appointment, apply the sanctions set forth  
6 in Section 1310 of this title or both. This provision shall not  
7 require that all outstanding liabilities have been exonerated, but  
8 may provide that the liabilities are still being monitored by the  
9 bondsman or agent.

10 D. Every bail bondsman who negotiates and posts a bond shall,  
11 in any controversy between the defendant, indemnitor, or guarantor  
12 and the bail bondsman or ~~surety~~ insurer, be regarded as representing  
13 the ~~surety~~ insurer. This provision shall not affect the apparent  
14 authority of a bail bondsman as an agent for the insurer.

15 SECTION 11. AMENDATORY 59 O.S. 2011, Section 1328, as  
16 amended by Section 24, Chapter 407, O.S.L. 2013 (59 O.S. Supp. 2015,  
17 Section 1328), is amended to read as follows:

18 Section 1328. A. The bondsman or ~~surety~~ insurer, or a licensed  
19 bail enforcer pursuant to a client contract authorized by the Bail  
20 Enforcement and Licensing Act, desiring to make a surrender of the  
21 defendant shall procure or have in his or her possession a certified  
22 copy of the undertakings and deliver such documents together with  
23 the defendant to the official in whose custody the defendant was at  
24 the time bail was taken, or to the official into whose custody he or

1 she would have been given had he or she been committed, who shall  
2 detain the defendant in custody thereon, as upon a commitment, and  
3 by a certificate in writing acknowledge the surrender.

4       Upon the presentation of a certified copy of the undertaking and  
5 the certificate of the official, the court before which the  
6 defendant has been held to answer, or the court in which the  
7 preliminary examination, indictment, information or appeal is  
8 pending, shall upon notice of three (3) days given by the person  
9 making the surrender to the prosecuting officer of the court having  
10 jurisdiction of the offense, together with a copy of the  
11 undertakings and certificate, order that the obligors be exonerated  
12 from liability on their undertakings; and, if money has been  
13 deposited as bail, that such money or bonds be refunded. If  
14 property pledged, a certificate of exoneration be issued and the  
15 lien previously filed be released and the undertakings of whatever  
16 nature be canceled.

17       If certified copies of bonds are not reasonably available, the  
18 bondsman or ~~surety~~ insurer may recommit the defendant to be held in  
19 custody on the charges for which the bondsman or ~~surety~~ insurer has  
20 previously posted appearance bonds thereon in accordance with the  
21 following procedure:

22       1. On a Recommitment of Defendant by Bondsman form approved by  
23 the Administrative Office of the Courts, the bondsman or ~~surety~~

24



1 insurer shall personally affix his or her signature to an affidavit  
2 attesting to the following:

3 a. the bondsman or ~~surety~~ insurer has posted a bond or  
4 bonds for the defendant and is hereby presented to the  
5 official in whose custody the defendant was at the  
6 time bail was taken,

7 b. the case number, if any, assigned to each bond, and

8 c. the specific charges and bond amount or amounts;

9 2. The bondsman or ~~surety~~ insurer shall present the  
10 Recommitment of Defendant by Bondsman form to the official in whose  
11 custody the defendant is being surrendered, and the official shall  
12 detain the defendant in his or her custody thereon, as upon a  
13 commitment, and by a certificate in writing acknowledging the  
14 surrender; and

15 3. When a bondsman or ~~surety~~ insurer recommits a defendant  
16 pursuant to this subsection, the bondsman or ~~surety~~ insurer shall  
17 file a written notification thereof to the courts, and after such  
18 notification, the bond or bonds shall be exonerated and the clerk  
19 shall enter a minute in the case exonerating the bond or bonds.

20 B. Any bail bondsman engaged in the apprehension or surrender  
21 of his or her defendant client, and any bail bondsman assisting  
22 another bondsman pursuant to Section 1311.4 of this title, shall at  
23 all times while engaged in the apprehension or surrender of the  
24 defendant client have his or her bail bondsman license in his or her

1 possession and shall present the license to any law enforcement  
2 officer immediately upon request.

3 SECTION 12. This act shall become effective November 1, 2016.

4 COMMITTEE REPORT BY: COMMITTEE ON BUSINESS AND COMMERCE  
5 April 7, 2016 - DO PASS  
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