

1 **PRIVATE INVESTIGATOR AND BAIL RECOVERY**

2 **LICENSURE AMENDMENTS**

3 2015 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Curtis Oda**

6 Senate Sponsor: Margaret Dayton

8 **LONG TITLE**

9 **General Description:**

10 This bill amends provisions relating to private investigator and bail recovery licensure.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ removes certain licensee insurance requirements;
- 14 ▶ requires the posting of, and describes the requirements for, a surety bond by a
- 15 licensee; and
- 16 ▶ makes technical and conforming changes.

17 **Money Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **53-9-110**, as last amended by Laws of Utah 2011, Chapter 432

24 **53-11-102**, as enacted by Laws of Utah 1998, Chapter 257

25 **53-11-110**, as enacted by Laws of Utah 1998, Chapter 257

26 **53-11-113**, as enacted by Laws of Utah 1998, Chapter 257

27 **53-11-115**, as last amended by Laws of Utah 2013, Chapter 396

28

29 *Be it enacted by the Legislature of the state of Utah:*

30 Section 1. Section 53-9-110 is amended to read:

31 **53-9-110. Application for registrant or apprentice license.**

32 (1) Every application for a registrant or apprentice license shall provide to the bureau:

33 (a) the full name and address of the applicant;

34 (b) one passport-size color photograph of the applicant;

35 (c) the name of the licensed agency for which the applicant will be an employee,
36 apprentice, or contract registrant, if applicable;

37 (d) authorization of the licensed agency or its designee to employ the apprentice or
38 contract with the registrant, if applicable;

39 (e) a verified statement of the applicant's experience and qualifications as provided in
40 Section 53-9-108; and

41 (f) the fee prescribed in Section 53-9-111.

42 (2) An application for a registrant or apprentice license or renewal shall be
43 accompanied by a surety bond in the amount of \$10,000.

44 (3) The surety bond required by this section shall:

45 ~~[(a) protect against liability to third persons;]~~

46 ~~[(b) be continuous in form and run concurrently with the license period; and]~~

47 ~~[(c) provide for notice to the bureau in the event of cancellation of the surety bond.]~~

48 (a) be in effect throughout the entire licensing period; and

49 (b) provide that the issuer of the surety bond will notify the bureau if the bond is
50 cancelled or expired.

51 (4) (a) The bureau shall cancel a license when it receives notice from the insurer that
52 the bond required in Subsection (2) has expired or been ~~cancelled~~ cancelled.

53 (b) The licensee shall be notified by the bureau when a license has been cancelled
54 under this Subsection (4).

55 (c) The license may be reinstated when the licensee:

56 (i) files proof of a bond for the remainder of the license period; and

57 (ii) pays the reinstatement fee prescribed in Section 53-9-111.

58 Section 2. Section **53-11-102** is amended to read:

59 **53-11-102. Definitions.**

60 As used in this chapter:

61 (1) "Applicant" means a person who has submitted to the department a completed
62 application and all required application and processing fees.

63 (2) "Bail bond agency" means a bail enforcement agent licensed under this chapter who
64 operates a business to carry out the functions of a bail enforcement agent, and to conduct this
65 business:

66 (a) employs one or more persons licensed under this chapter for wages or salary, and
67 withholds all legally required deductions and contributions; or

68 (b) contracts with a bail recovery agent or bail recovery apprentice on a part-time or
69 case-by-case basis.

70 (3) "Bail enforcement agent" means an individual licensed under this chapter as a bail
71 enforcement agent to enforce the terms and conditions of a defendant's release on bail in a civil
72 or criminal proceeding, to apprehend a defendant or surrender a defendant to custody, or both,
73 as is appropriate, and who:

74 (a) is appointed by a bail bond surety; and

75 (b) receives or is promised money or other things of value for this service.

76 (4) "Bail recovery agent" means an individual employed by a bail enforcement agent to
77 assist the bail enforcement agent regarding civil or criminal defendants released on bail by:

78 (a) presenting a defendant for required court appearances;

79 (b) apprehending or surrendering a defendant to a court; or

80 (c) keeping the defendant under necessary surveillance.

81 (5) "Bail recovery apprentice" means any individual licensed under this chapter as a
82 bail recovery apprentice, and who:

83 (a) has not met the requirements for licensure as a bail recovery agent or bail
84 enforcement agent; and

85 (b) is employed by a bail enforcement agent, and works under the direct supervision of

86 a bail enforcement agent or bail recovery agent employed also by the bail enforcement agent,
87 unless the bail recovery apprentice is conducting activities at the direction of the employing
88 bail enforcement agent that under this chapter do not require direct supervision.

89 (6) "Board" means the Bail Bond Recovery Licensure Board created under Section
90 [53-11-104](#).

91 (7) "Bureau" means the Bureau of Criminal Identification created in Section [53-10-201](#)
92 within the Department of Public Safety.

93 ~~[(7)]~~ (8) "Commissioner" means the commissioner of public safety as defined under
94 Section [53-1-107](#), or his designee.

95 ~~[(8)]~~ (9) "Contract employee" or "independent contractor" means a person who works
96 for an agency as an independent contractor.

97 ~~[(9)]~~ (10) "Conviction" means an adjudication of guilt by a federal, state, or local court
98 resulting from a trial or plea, including a plea of no contest or nolo contendere, regardless of
99 whether the imposition of sentence was suspended.

100 ~~[(10)]~~ (11) "Department" means the Department of Public Safety.

101 ~~[(11)]~~ (12) "Direct supervision" means a bail enforcement agent employing or
102 contracting with a bail recovery apprentice, or a bail recovery agent employed by or contracting
103 with that bail enforcement agent who:

104 (a) takes responsibility for and assigns the work a bail recovery apprentice may
105 conduct; and

106 (b) closely supervises, within close physical proximity, and provides direction and
107 guidance to the bail recovery apprentice regarding the assigned work.

108 ~~[(12)]~~ (13) "Emergency action" means a summary suspension of a license issued under
109 this chapter pending revocation, suspension, or probation, in order to protect the public health,
110 safety, or welfare.

111 ~~[(13)]~~ (14) "Identification card" means a card issued by the commissioner to an
112 applicant qualified for licensure under this chapter.

113 ~~[(14)]~~ (15) "Letter of concern" means an advisory letter to notify a licensee that while

114 there is insufficient evidence to support probation, suspension, or revocation of a license, the
115 department believes:

- 116 (a) the licensee should modify or eliminate certain practices; and
- 117 (b) continuation of the activities that led to the information being submitted to the
118 department may result in further disciplinary action against the license.

119 [~~15~~] (16) "Occupied structure" means any edifice, including residential and public
120 buildings, vehicles, or any other structure that could reasonably be expected to house or shelter
121 persons.

122 [~~16~~] (17) "Supervision" means the employing bail enforcement agent is responsible
123 for and authorizes the type and extent of work assigned to a bail recovery agent who is his
124 employee or contract employee.

125 [~~17~~] (18) "Unprofessional conduct" means:

126 (a) engaging or offering to engage by fraud or misrepresentation in any activities
127 regulated by this chapter;

128 (b) aiding or abetting a person who is not licensed pursuant to this chapter in
129 representing that person as a bail recovery agent in this state;

130 (c) gross negligence in the practice of a bail recovery agent;

131 (d) committing a felony or a misdemeanor involving any crime that is grounds for
132 denial, suspension, or revocation of a bail recovery license, and conviction by a court of
133 competent jurisdiction or a plea of no contest is conclusive evidence of the commission; or

134 (e) making a fraudulent or untrue statement to the board, department, its investigators,
135 or staff.

136 Section 3. Section **53-11-110** is amended to read:

137 **53-11-110. Bail enforcement agent as agency -- Surety bond -- Workers'**
138 **compensation.**

139 (1) An applicant for licensure as a bail enforcement agent who will operate a bail bond
140 recovery agency shall provide the following information as part of the application:

141 (a) the full name and business address of the applicant;

- 142 (b) two passport-size color photographs of the applicant;
- 143 (c) the name under which the applicant intends to conduct the business;
- 144 (d) a statement that the applicant intends to engage in the bail bond recovery business;
- 145 (e) a notarized statement of the applicant's qualifications as required by Sections
- 146 53-11-108 and 53-11-109;
- 147 (f) the fee required by Section 53-11-115;
- 148 (g) a certificate of workers' compensation insurance, if applicable; and
- 149 (h) proof of completion of a training program approved by the board.

150 (2) An applicant for licensure, or renewal of licensure, as a bail enforcement agent
 151 shall include with the application a surety bond:

- 152 (a) in the amount of \$10,000;
- 153 (b) that is in effect throughout the entire licensing period; and
- 154 (c) that provides that the issuer of the surety bond will notify the bureau if the bond is
 155 cancelled or expired.

156 ~~[(2)]~~ (3) The license for a bail enforcement agent shall indicate on its face if the holder
 157 is licensed to act as a bail bond recovery agency.

158 (4) The bureau shall:

- 159 (a) cancel a license if the bureau receives notice that the surety bond described in
 160 Subsection (2) is cancelled or expired;
- 161 (b) notify a licensee when the bureau cancels a license under Subsection (4)(a); and
- 162 (c) reinstate a license that has been cancelled under Subsection (4)(a), and has not
 163 otherwise been revoked, when the person whose license was cancelled:
 164 (i) files a surety bond described in Subsection (2) that is in effect for the remainder of
 165 the licensing period; and
 166 (ii) pays the licensing fee described in Section 53-11-115.

167 Section 4. Section 53-11-113 is amended to read:

168 **53-11-113. Bail recovery agent and bail recovery apprentice licensure -- Surety**
 169 **bond -- Fee -- Workers' compensation.**

170 (1) An applicant for licensure as a bail recovery agent or as a bail recovery apprentice
171 shall provide as part of the application:

172 (a) the full name and address of the applicant;

173 (b) two passport-size color photographs of the applicant;

174 (c) the name of the bail bond recovery agency for which the applicant will be an
175 employee or with which the applicant will be an independent contractor;

176 (d) written indication by a bail bond recovery agency or its designee that it intends to
177 employ or contract with the applicant; and

178 (e) a notarized statement of the applicant's experience and qualifications required under
179 Section [53-11-111](#) or [53-11-112](#), as appropriate.

180 (2) The licensure application or renewal shall be accompanied by the fee required
181 under Section [53-11-115](#).

182 (3) An applicant for licensure, or renewal of licensure, as a bail recovery agent or a bail
183 recovery apprentice shall include with the application a surety bond:

184 (a) in the amount of \$10,000;

185 (b) that is in effect throughout the entire licensing period; and

186 (c) that provides that the issuer of the surety bond will notify the bureau if the bond is
187 cancelled or expired.

188 (4) The bureau shall:

189 (a) cancel a license if the bureau receives notice that the surety bond described in
190 Subsection (3) is cancelled or expired;

191 (b) notify a licensee when the bureau cancels a license under Subsection (4)(a); and

192 (c) reinstate a license that has been cancelled under Subsection (4)(a), and has not
193 otherwise been revoked, when the person whose license was cancelled:

194 (i) files a surety bond described in Subsection (3) that is in effect for the remainder of
195 the licensing period; and

196 (ii) pays the licensing fee described in Section [53-11-115](#).

197 [~~3~~] (5) (a) A license or a license renewal for a bail recovery agent or a bail recovery

198 apprentice may not be granted to an applicant unless the employing bail bond recovery agency
199 has on file with the department evidence of current workers' compensation coverage.

200 (b) A bail recovery agent or bail recovery apprentice license may not be reinstated
201 without providing verification of the reinstatement of the workers' compensation coverage and
202 payment of the reinstatement fee required in Section 53-11-115.

203 (c) The provisions of this Subsection [~~(3)~~] (5) do not apply to a bail recovery agent or
204 bail recovery apprentice who is working for a bail bond recovery agency as an independent
205 contractor.

206 Section 5. Section 53-11-115 is amended to read:

207 **53-11-115. License fees -- Deposit in General Fund.**

208 (1) Fees for licensure, registration, and renewal are:

209 (a) for an original bail enforcement agent license application and license, \$250, which
210 shall include the costs of fingerprint processing and background investigation;

211 (b) for the renewal of a bail enforcement agent or bail bond recovery agency license,
212 \$150;

213 (c) for an original bail recovery agent license application and license, \$150, which shall
214 include the costs of fingerprint processing and background investigation;

215 (d) for the renewal of each bail recovery agent license, \$100;

216 (e) for an original bail recovery apprentice license application and license, \$150, which
217 shall include the costs of fingerprint processing and background investigation;

218 (f) for the renewal of each bail recovery apprentice license, \$100;

219 (g) for filing a renewal application under Subsection (1)(b) more than 30 days after the
220 expiration date of the license, a delinquency fee of \$50;

221 (h) for filing a renewal application under Subsection (1)(d) more than 30 days after the
222 expiration date of the registration, a delinquency fee of \$30;

223 (i) for filing a renewal application under Subsection (1)(f) more than 30 days after the
224 expiration date of the apprentice license, a delinquency fee of \$30;

225 (j) for the reinstatement of a bail enforcement agent or bail bond recovery agency

226 license, \$50;

227 (k) for a duplicate identification card, \$10; and

228 (l) for reinstatement of an identification card, \$10.

229 (2) (a) The bureau may renew a license granted under this chapter upon receipt of an
230 application on forms as prescribed by the board and upon receipt of the fees prescribed in
231 Subsection (1), if the licensee's application meets all the requirements for renewal.

232 (b) If the bureau determines the license renewal application does not meet all the
233 requirements for renewal, the bureau shall submit the renewal application to the board for
234 review and action.

235 ~~[(c) The renewal of a bail enforcement agent, bail recovery agent, or bail recovery~~
236 ~~apprentice license requires the filing of a liability insurance policy as required in Subsections~~
237 ~~53-9-110(2) and (3).]~~

238 ~~[(d)]~~ (c) A license may not be renewed more than 90 days after its expiration.

239 ~~[(e)]~~ (d) A licensee may not engage in any activity subject to this chapter during any
240 period between the date of expiration of the license and the renewal of the license.

241 (3) (a) The board may reinstate a suspended license upon completion of the term of
242 suspension.

243 (b) Renewal of the license does not entitle the licensee, while the license remains
244 suspended and until it is reinstated, to engage in any activity regulated by this chapter, or in any
245 other activity or conduct in violation of the order or judgment by which the license was
246 suspended.

247 (4) The board may not reinstate a revoked license or accept an application for a license
248 from a person whose license has been revoked for at least one year after the date of revocation.

249 (5) All fees collected by the department under this section shall be deposited in the
250 General Fund.