

Amendment No. 1a (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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4		.	

ORIGINAL STAMP BELOW

The Committee on Insurance offered the following:

**Amendment (with title amendment)**

Remove from the bill: Everything after the enacting clause  
and insert in lieu thereof:

Section 1. Paragraph (c) of subsection (2) and  
paragraph (a) of subsection (4) of section 648.386, Florida  
Statutes, are amended to read:

648.386 Qualifications for prelicensing and continuing  
education schools and instructors.--

(2) SCHOOLS AND CURRICULUM FOR CONTINUING EDUCATION  
SCHOOLS.--In order to be considered for approval and  
certification as an approved limited surety agent and  
professional bail bond agent continuing education school, such  
entity must:

(c) Offer continuing education classes which are  
comprised of a minimum of 2 hours of approved coursework and  
are taught by an approved supervising instructor or guest  
lecturer approved by the entity or the supervising instructor.

(4) INSTRUCTOR'S DUTIES AND QUALIFICATIONS.--

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1 (a) Each course must have a supervising instructor who  
2 is approved by the department. The supervising instructor  
3 shall be present at all classes. The supervising instructor  
4 is responsible for:

- 5 1. All course instructors.
- 6 2. All guest lecturers.
- 7 3. The course outlines and curriculum.
- 8 4. Certification of each attending limited surety  
9 agent or professional bail bond agent.
- 10 5. Completion of all required forms.
- 11 6. Assuring that the course is approved.

12  
13 Either the entity or the supervising instructor may approve  
14 guest lecturers.

15 Section 2. Paragraph (1) of subsection (1) of section  
16 648.44, Florida Statutes, is amended to read:

17 648.44 Prohibitions; penalty.--

18 (1) A bail bond agent, temporary bail bond agent, or  
19 runner may not:

20 (1) Execute a bond in this state if a judgment has  
21 been entered on a bond executed by the bail bond agent, which  
22 has remained unpaid for 35 ~~60~~ days, unless the full amount of  
23 the judgment is deposited with the clerk in accordance with s.  
24 903.27(5).

25 Section 3. Paragraph (a) of subsection (1) of section  
26 903.035, Florida Statutes, is amended to read:

27 903.035 Applications for bail; information provided;  
28 hearing on application for modification; penalty for providing  
29 false or misleading information or omitting material  
30 information.--

31 (1)(a) All information provided by a defendant or any

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1 other person, in connection with any application for or  
2 attempt to secure bail, to any court, court personnel, or  
3 individual soliciting or recording such information for the  
4 purpose of evaluating eligibility for, or securing, bail for  
5 the defendant, under circumstances such that the defendant or  
6 such other person knew or should have known that the  
7 information was to be used in connection with an application  
8 for bail, shall be accurate, truthful, and complete without  
9 omissions to the best knowledge of the defendant or such other  
10 person. Inaccuracies or omissions by county, correctional, or  
11 court employees shall not be grounds for discharging a  
12 forfeiture or setting aside a judgment.

13 Section 4. Subsection (3) of section 903.21, Florida  
14 Statutes, is amended to read:

15 903.21 Method of surrender; exoneration of obligors.--

16 (3) The surety shall be exonerated of liability on the  
17 bond if it is determined prior to breach of the bond that the  
18 defendant is in any jail or prison and the surety agrees in  
19 writing to pay the transportation cost of returning the  
20 defendant to the jurisdiction of the court. For purposes of  
21 this subsection, "jurisdiction" means within the judicial  
22 circuit as prescribed by law.

23 Section 5. Subsection (5) of section 903.26, Florida  
24 Statutes, is amended, and subsection (8) is added to said  
25 section, to read:

26 903.26 Forfeiture of the bond; when and how directed;  
27 discharge; how and when made; effect of payment.--

28 (5) The court shall ~~may~~ discharge a forfeiture within  
29 60 ~~35~~ days upon:

30 (a) A determination that it was impossible for the  
31 defendant to appear as required due to circumstances beyond

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1 the defendant's control. The potential adverse economic  
2 consequences of appearing as required shall not be considered  
3 as constituting a ground for such a determination;

4 (b) A determination that, at the time of the required  
5 appearance, the defendant was adjudicated insane and confined  
6 in an institution or hospital or was confined in a jail or  
7 prison; ~~or~~

8 (c) Surrender or arrest of the defendant if the delay  
9 has not thwarted the proper prosecution of the defendant. If  
10 the forfeiture has been before discharge, the court shall  
11 direct remission of the forfeiture. The court shall condition  
12 a discharge or remission on the payment of costs and the  
13 expenses incurred by an official in returning the defendant to  
14 the jurisdiction of the court.

15 (8) If the defendant is arrested and returned to the  
16 county of jurisdiction of the court prior to judgment, the  
17 clerk, upon affirmation by the sheriff or the chief  
18 correctional officer, shall, without further order of the  
19 court, discharge the forfeiture of the bond. However, if the  
20 surety agent fails to pay the costs and expenses incurred in  
21 returning the defendant to the county of jurisdiction, the  
22 clerk shall not discharge the forfeiture of the bond. If the  
23 surety agent and the county attorney fail to agree on the  
24 amount of said costs then the court, after notice to the  
25 county attorney, shall determine the amount of the costs.

26 Section 6. Subsections (1), (3), (4) and (5) of  
27 section 903.27, Florida Statutes, are amended to read:

28 903.27 Forfeiture to judgment.--

29 (1) If the forfeiture is not paid or discharged by  
30 order of a court of competent jurisdiction within 60 ~~35~~ days  
31 and the bond is secured other than by money and bonds

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1 authorized in s. 903.16, the clerk of the circuit court for  
2 the county where the order was made shall enter a judgment  
3 against the surety for the amount of the penalty and issue  
4 execution. Within 10 days, the clerk shall furnish the  
5 Department of Insurance with a certified copy of the judgment  
6 docket and shall furnish the surety company at its home office  
7 a copy of the judgment, which shall include the power of  
8 attorney number of the bond and the name of the executing  
9 agent. If the judgment is not paid within 35 ~~60~~ days, the  
10 clerk shall furnish the Department of Insurance and the  
11 sheriff of the county in which the bond was executed, or the  
12 official responsible for operation of the county jail, if  
13 other than the sheriff, two copies of the judgment and a  
14 certificate stating that the judgment remains unsatisfied.  
15 When and if the judgment is properly paid or an order to  
16 vacate the judgment has been entered by a court of competent  
17 jurisdiction, the clerk shall immediately notify the sheriff,  
18 or the official responsible for the operation of the county  
19 jail, if other than the sheriff, and the Department of  
20 Insurance, if the department had been previously notified of  
21 nonpayment, of such payment or order to vacate the judgment.  
22 The clerk shall also immediately prepare and record in the  
23 public records a satisfaction of the judgment or record the  
24 order to vacate judgment. If the defendant is returned to the  
25 county of jurisdiction of the court, whenever a motion to set  
26 aside the judgment is filed, the operation of this section is  
27 tolled until the court makes a disposition of the motion.

28 (3) Surety bail bonds may not be executed by a bail  
29 bond agent against whom a judgment has been entered which has  
30 remained unpaid for 35 ~~60~~ days and may not be executed for a  
31 company against whom a judgment has been entered which has

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1 remained unpaid for 50 ~~75~~ days. No sheriff or other official  
2 who is empowered to accept or approve surety bail bonds shall  
3 accept or approve such a bond executed by such a bail bond  
4 agent or executed for such a company until such judgment has  
5 been paid.

6 (4) After notice of judgment against the surety given  
7 by the clerk of the circuit court, the surety or bail bond  
8 agent shall, within 35 ~~60~~ days of the entry of judgment,  
9 submit to the clerk of the circuit court an amount equal to  
10 the judgment, unless the judgment has been set aside by the  
11 court within 35 ~~60~~ days of the entry of judgment. If a motion  
12 to set aside the judgment has been filed pursuant to  
13 subsection (5), the amount submitted shall be held in escrow  
14 until such time as the court has disposed of the motion. The  
15 failure to comply with the provisions of this subsection  
16 constitutes a failure to pay the judgment.

17 (5) After notice of judgment against the surety given  
18 by the clerk of the circuit court, the surety or bail bond  
19 agent may within 35 ~~60~~ days file a motion to set aside the  
20 judgment or to stay the judgment. It shall be a condition of  
21 any such motion and of any order to stay the judgment that the  
22 surety pay the amount of the judgment to the clerk, which  
23 amount shall be held in escrow until such time as the court  
24 has disposed of the motion to set aside the judgment. The  
25 filing of such a motion, when accompanied by the required  
26 escrow deposit, shall act as an automatic stay of further  
27 proceedings, including execution, until the motion has been  
28 heard and a decision rendered by the court.

29 Section 7. Section 903.28, Florida Statutes, is  
30 amended to read:

31 903.28 Remission of forfeiture; conditions.--

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1           (1) On application within 2 years from forfeiture, the  
2 court shall order remission of the forfeiture if it determines  
3 that there was no breach of the bond.

4           (2) If the defendant surrenders or is apprehended  
5 within 90 days after forfeiture, the court, on motion at a  
6 hearing upon notice having been given to the county attorney  
7 and state attorney as required in subsection (8), shall ~~may~~  
8 direct remission of up to, but not more than, 100 percent of a  
9 forfeiture if the surety apprehended and surrendered the  
10 defendant or if the apprehension or surrender of the defendant  
11 was substantially procured or caused by the surety, or the  
12 surety has substantially attempted to procure or cause the  
13 apprehension or surrender of the defendant, and the delay has  
14 not thwarted the proper prosecution of the defendant. In  
15 addition, remission shall ~~may~~ be granted when the surety did  
16 not substantially participate or attempt to participate in the  
17 apprehension or surrender of the defendant when the costs of  
18 returning the defendant to the jurisdiction of the court have  
19 been deducted from the remission and when the delay has not  
20 thwarted the proper prosecution of the defendant.

21           (3) If the defendant surrenders or is apprehended  
22 within 180 days after forfeiture, the court, on motion at a  
23 hearing upon notice having been given to the county attorney  
24 and state attorney as required in subsection (8), shall ~~may~~  
25 direct remission of up to, but not more than, 95 percent of a  
26 forfeiture if the surety apprehended and surrendered the  
27 defendant or if the apprehension or surrender of the defendant  
28 was substantially procured or caused by the surety, or the  
29 surety has substantially attempted to procure or cause the  
30 apprehension or surrender of the defendant, and the delay has  
31 not thwarted the proper prosecution of the defendant. In

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1 addition, remission shall ~~may~~ be granted when the surety did  
2 not substantially participate or attempt to participate in the  
3 apprehension or surrender of the defendant when the costs of  
4 returning the defendant to the jurisdiction of the court have  
5 been deducted from the remission and when the delay has not  
6 thwarted the proper prosecution of the defendant.

7 (4) If the defendant surrenders or is apprehended  
8 within 270 days after forfeiture, the court, on motion at a  
9 hearing upon notice having been given to the county attorney  
10 and state attorney as required in subsection (8), shall ~~may~~  
11 direct remission of up to, but not more than, 90 percent of a  
12 forfeiture if the surety apprehended and surrendered the  
13 defendant or if the apprehension or surrender of the defendant  
14 was substantially procured or caused by the surety, or the  
15 surety has substantially attempted to procure or cause the  
16 apprehension or surrender of the defendant, and the delay has  
17 not thwarted the proper prosecution of the defendant. In  
18 addition, remission shall ~~may~~ be granted when the surety did  
19 not substantially participate or attempt to participate in the  
20 apprehension or surrender of the defendant when the costs of  
21 returning the defendant to the jurisdiction of the court have  
22 been deducted from the remission and when the delay has not  
23 thwarted the proper prosecution of the defendant.

24 (5) If the defendant surrenders or is apprehended  
25 within 1 year after forfeiture, the court, on motion at a  
26 hearing upon notice having been given to the county attorney  
27 and state attorney as required in subsection (8), shall ~~may~~  
28 direct remission of up to, but not more than, 85 percent of a  
29 forfeiture if the surety apprehended and surrendered the  
30 defendant or if the apprehension or surrender of the defendant  
31 was substantially procured or caused by the surety, or the



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1 surety has substantially attempted to procure or cause the  
2 apprehension or surrender of the defendant, and the delay has  
3 not thwarted the proper prosecution of the defendant. In  
4 addition, remission shall ~~may~~ be granted when the surety did  
5 not substantially participate or attempt to participate in the  
6 apprehension or surrender of the defendant when the costs of  
7 returning the defendant to the jurisdiction of the court have  
8 been deducted from the remission and when the delay has not  
9 thwarted the proper prosecution of the defendant.

10 (6) If the defendant surrenders or is apprehended  
11 within 2 years after forfeiture, the court, on motion at a  
12 hearing upon notice having been given to the county attorney  
13 and state attorney as required in subsection (8), shall ~~may~~  
14 direct remission of up to, but not more than, 50 percent of a  
15 forfeiture if the surety apprehended and surrendered the  
16 defendant or if the apprehension or surrender of the defendant  
17 was substantially procured or caused by the surety, or the  
18 surety has substantially attempted to procure or cause the  
19 apprehension or surrender of the defendant, and the delay has  
20 not thwarted the proper prosecution of the defendant. In  
21 addition, remission shall ~~may~~ be granted when the surety did  
22 not substantially participate or attempt to participate in the  
23 apprehension or surrender of the defendant when the costs of  
24 returning the defendant to the jurisdiction of the court have  
25 been deducted from the remission and when the delay has not  
26 thwarted the proper prosecution of the defendant.

27 (7) The remission of a forfeiture may not be ordered  
28 for any reason other than as specified herein.

29 (8) An application for remission must be accompanied  
30 by affidavits setting forth the facts on which it is founded;  
31 however, the surety must establish by further documentation or

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1 other evidence any claimed attempt at procuring or causing the  
2 apprehension or surrender of the defendant before the court  
3 may order remission based upon an attempt to procure or cause  
4 such apprehension or surrender. The state attorney and the  
5 county attorney must be given 20 days' notice before a hearing  
6 on an application and be furnished copies of all papers,  
7 applications, and affidavits. Remission shall be granted on  
8 the condition of payment of costs, unless the ground for  
9 remission is that there was no breach of the bond.

10 Section 8. Section 903.31, Florida Statutes, is  
11 amended to read:

12 903.31 Canceling the bond.--

13 (1) Within 10 business days after the conditions of a  
14 bond have been satisfied or the forfeiture discharged or  
15 remitted, the court shall order the bond canceled and, if the  
16 surety has attached a certificate of cancellation to the  
17 original bond, shall furnish an executed certificate of  
18 cancellation to the surety without cost. An adjudication of  
19 guilt or innocence of the defendant shall satisfy the  
20 conditions of the bond. The original appearance bond shall  
21 expire 36 months after such bond has been posted for the  
22 release of the defendant from custody. This subsection does  
23 not apply to cases in which a bond has been declared  
24 forfeited.

25 (2) The original appearance bond shall not be  
26 construed to guarantee deferred sentences, appearance during  
27 or after a presentence investigation, appearance during or  
28 after appeals, conduct during or appearance after admission to  
29 a pretrial intervention program, payment of fines, or  
30 attendance at educational or rehabilitation facilities the  
31 court otherwise provides in the judgment. If the original

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1 appearance bond has been forfeited or revoked, the bond shall  
2 not be reinstated without approval from the surety on the  
3 original bond.

4  
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6 ===== T I T L E A M E N D M E N T =====

7 And the title is amended as follows:

8 On page 2, lines 2-4  
9 remove from the title of the bill: all of said lines

10  
11

and insert in lieu thereof:

12 An act relating to bail bonds; amending s.  
13 648.386, F.S.; revising certain continuing  
14 education requirements; amending s. 648.44,  
15 F.S.; revising requirement relating to bail  
16 bond agents; amending s.

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