

1 A bill to be entitled
2 An act relating to bail bonds; amending s.
3 648.386, F.S.; revising certain continuing
4 education requirements; amending s. 648.44,
5 F.S.; revising requirement relating to bail
6 bond agents; amending s. 903.21, F.S.;
7 providing a definition; amending s.903.26,
8 F.S.; requiring "amending s. 903.25, F.S.;
9 requiring" amending s.903.26, F.S.; requiring
10 discharge of a forfeiture with a time certain;
11 providing an additional criterion for discharge
12 of a forfeiture; requiring a clerk of court to
13 set aside a forfeiture and discharge a bond
14 under certain circumstances; amending s.
15 903.27, F.S.; providing for tolling certain
16 forfeiture operations under certain
17 circumstances; amending s. 903.28, F.S.;
18 requiring remissions to be granted under
19 certain circumstances; amending s. 903.31,
20 F.S.; providing for expiration of certain bonds
21 under certain circumstances; specifying
22 nonapplication when a bond is declared
23 forfeited; prohibiting reinstatement of
24 original appearance bonds under certain
25 circumstances; providing an effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

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

1 648.386 Qualifications for prelicensing and continuing
2 education schools and instructors.--

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

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

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

13 (a) Each course must have a supervising instructor who
14 is approved by the department. The supervising instructor
15 shall be present at all classes. The supervising instructor
16 is responsible for:

- 17 1. All course instructors.
- 18 2. All guest lecturers.
- 19 3. The course outlines and curriculum.
- 20 4. Certification of each attending limited surety
21 agent or professional bail bond agent.
- 22 5. Completion of all required forms.
- 23 6. Assuring that the course is approved.

24
25 Either the entity or the supervising instructor may approve
26 guest lecturers.

27 Section 2. Paragraph (1) of subsection (1) of section
28 648.44, Florida Statutes, is amended to read:

29 648.44 Prohibitions; penalty.--

30 (1) A bail bond agent, temporary bail bond agent, or
31 runner may not:

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

6 Section 3. Subsection (3) of section 903.21, Florida
7 Statutes, is amended to read:

8 903.21 Method of surrender; exoneration of obligors.--

9 (3) The surety shall be exonerated of liability on the
10 bond if it is determined prior to breach of the bond that the
11 defendant is in any jail or prison and the surety agrees in
12 writing to pay the transportation cost of returning the
13 defendant to the jurisdiction of the court. For purposes of
14 this subsection, "jurisdiction" means within the judicial
15 circuit as prescribed by law.

16 Section 4. Subsection (5) of section 903.26, Florida
17 Statutes, is amended, and subsection (8) is added to said
18 section, to read:

19 903.26 Forfeiture of the bond; when and how directed;
20 discharge; how and when made; effect of payment.--

21 (5) The court shall ~~may~~ discharge a forfeiture within
22 60 ~~35~~ days upon:

23 (a) A determination that it was impossible for the
24 defendant to appear as required due to circumstances beyond
25 the defendant's control. The potential adverse economic
26 consequences of appearing as required shall not be considered
27 as constituting a ground for such a determination;

28 (b) A determination that, at the time of the required
29 appearance, the defendant was adjudicated insane and confined
30 in an institution or hospital or was confined in a jail or
31 prison; ~~or~~

1 (c) Surrender or arrest of the defendant if the delay
2 has not thwarted the proper prosecution of the defendant. If
3 the forfeiture has been before discharge, the court shall
4 direct remission of the forfeiture. The court shall condition
5 a discharge or remission on the payment of costs and the
6 expenses incurred by an official in returning the defendant to
7 the jurisdiction of the court.

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

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

21 903.27 Forfeiture to judgment.--

22 (1) If the forfeiture is not paid or discharged by
23 order of a court of competent jurisdiction within 60 ~~35~~ days
24 and the bond is secured other than by money and bonds
25 authorized in s. 903.16, the clerk of the circuit court for
26 the county where the order was made shall enter a judgment
27 against the surety for the amount of the penalty and issue
28 execution. Within 10 days, the clerk shall furnish the
29 Department of Insurance with a certified copy of the judgment
30 docket and shall furnish the surety company at its home office
31 a copy of the judgment, which shall include the power of

1 attorney number of the bond and the name of the executing
 2 agent. If the judgment is not paid within 35 ~~60~~ days, the
 3 clerk shall furnish the Department of Insurance and the
 4 sheriff of the county in which the bond was executed, or the
 5 official responsible for operation of the county jail, if
 6 other than the sheriff, two copies of the judgment and a
 7 certificate stating that the judgment remains unsatisfied.
 8 When and if the judgment is properly paid or an order to
 9 vacate the judgment has been entered by a court of competent
 10 jurisdiction, the clerk shall immediately notify the sheriff,
 11 or the official responsible for the operation of the county
 12 jail, if other than the sheriff, and the Department of
 13 Insurance, if the department had been previously notified of
 14 nonpayment, of such payment or order to vacate the judgment.
 15 The clerk shall also immediately prepare and record in the
 16 public records a satisfaction of the judgment or record the
 17 order to vacate judgment. If the defendant is returned to the
 18 county of jurisdiction of the court, whenever a motion to set
 19 aside the judgment is filed, the operation of this section is
 20 tolled until the court makes a disposition of the motion.

21 (3) Surety bail bonds may not be executed by a bail
 22 bond agent against whom a judgment has been entered which has
 23 remained unpaid for 35 ~~60~~ days and may not be executed for a
 24 company against whom a judgment has been entered which has
 25 remained unpaid for 50 ~~75~~ days. No sheriff or other official
 26 who is empowered to accept or approve surety bail bonds shall
 27 accept or approve such a bond executed by such a bail bond
 28 agent or executed for such a company until such judgment has
 29 been paid.

30 (4) After notice of judgment against the surety given
 31 by the clerk of the circuit court, the surety or bail bond

1 agent shall, within 35 ~~60~~ days of the entry of judgment,
2 submit to the clerk of the circuit court an amount equal to
3 the judgment, unless the judgment has been set aside by the
4 court within 35 ~~60~~ days of the entry of judgment. If a motion
5 to set aside the judgment has been filed pursuant to
6 subsection (5), the amount submitted shall be held in escrow
7 until such time as the court has disposed of the motion. The
8 failure to comply with the provisions of this subsection
9 constitutes a failure to pay the judgment.

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

22 Section 6. Section 903.28, Florida Statutes, is
23 amended to read:

24 903.28 Remission of forfeiture; conditions.--

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

28 (2) If the defendant surrenders or is apprehended
29 within 90 days after forfeiture, the court, on motion at a
30 hearing upon notice having been given to the county attorney
31 and state attorney as required in subsection (8), shall ~~may~~

1 direct remission of up to, but not more than, 100 percent of a
 2 forfeiture if the surety apprehended and surrendered the
 3 defendant or if the apprehension or surrender of the defendant
 4 was substantially procured or caused by the surety, or the
 5 surety has substantially attempted to procure or cause the
 6 apprehension or surrender of the defendant, and the delay has
 7 not thwarted the proper prosecution of the defendant. In
 8 addition, remission shall ~~may~~ be granted when the surety did
 9 not substantially participate or attempt to participate in the
 10 apprehension or surrender of the defendant when the costs of
 11 returning the defendant to the jurisdiction of the court have
 12 been deducted from the remission and when the delay has not
 13 thwarted the proper prosecution of the defendant.

14 (3) If the defendant surrenders or is apprehended
 15 within 180 days after forfeiture, the court, on motion at a
 16 hearing upon notice having been given to the county attorney
 17 and state attorney as required in subsection (8), shall ~~may~~
 18 direct remission of up to, but not more than, 95 percent of a
 19 forfeiture if the surety apprehended and surrendered the
 20 defendant or if the apprehension or surrender of the defendant
 21 was substantially procured or caused by the surety, or the
 22 surety has substantially attempted to procure or cause the
 23 apprehension or surrender of the defendant, and the delay has
 24 not thwarted the proper prosecution of the defendant. In
 25 addition, remission shall ~~may~~ be granted when the surety did
 26 not substantially participate or attempt to participate in the
 27 apprehension or surrender of the defendant when the costs of
 28 returning the defendant to the jurisdiction of the court have
 29 been deducted from the remission and when the delay has not
 30 thwarted the proper prosecution of the defendant.

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

18 (5) If the defendant surrenders or is apprehended
 19 within 1 year after forfeiture, the court, on motion at a
 20 hearing upon notice having been given to the county attorney
 21 and state attorney as required in subsection (8), shall ~~may~~
 22 direct remission of up to, but not more than, 85 percent of a
 23 forfeiture if the surety apprehended and surrendered the
 24 defendant or if the apprehension or surrender of the defendant
 25 was substantially procured or caused by the surety, or the
 26 surety has substantially attempted to procure or cause the
 27 apprehension or surrender of the defendant, and the delay has
 28 not thwarted the proper prosecution of the defendant. In
 29 addition, remission shall ~~may~~ be granted when the surety did
 30 not substantially participate or attempt to participate in the
 31 apprehension or surrender of the defendant when the costs of

1 returning the defendant to the jurisdiction of the court have
2 been deducted from the remission and when the delay has not
3 thwarted the proper prosecution of the defendant.

4 (6) If the defendant surrenders or is apprehended
5 within 2 years 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, 50 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 (7) The remission of a forfeiture may not be ordered
22 for any reason other than as specified herein.

23 (8) An application for remission must be accompanied
24 by affidavits setting forth the facts on which it is founded;
25 however, the surety must establish by further documentation or
26 other evidence any claimed attempt at procuring or causing the
27 apprehension or surrender of the defendant before the court
28 may order remission based upon an attempt to procure or cause
29 such apprehension or surrender. The state attorney and the
30 county attorney must be given 20 days' notice before a hearing
31 on an application and be furnished copies of all papers,

1 applications, and affidavits. Remission shall be granted on
2 the condition of payment of costs, unless the ground for
3 remission is that there was no breach of the bond.

4 Section 7. Section 903.31, Florida Statutes, is
5 amended to read:

6 903.31 Canceling the bond.--

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

19 (2) The original appearance bond shall not be
20 construed to guarantee deferred sentences, appearance during
21 or after a presentence investigation, appearance during or
22 after appeals, conduct during or appearance after admission to
23 a pretrial intervention program, payment of fines, or
24 attendance at educational or rehabilitation facilities the
25 court otherwise provides in the judgment. If the original
26 appearance bond has been forfeited or revoked, the bond shall
27 not be reinstated without approval from the surety on the
28 original bond.