

By Senator Silver

38-377A-02

1                                   A bill to be entitled  
2           An act relating to bail bond agencies and  
3           agents; creating s. 648.24, F.S.; declaring  
4           public policy; amending s. 648.25, F.S.;  
5           defining terms; amending s. 648.27, F.S.;  
6           prescribing licensure requirements for managing  
7           general agents; creating s. 648.285, F.S.;  
8           providing for temporary permits; amending s.  
9           648.29, F.S.; prescribing requirements for  
10          build-up accounts; amending ss. 648.30, 648.31,  
11          F.S.; eliminating references to runners;  
12          amending s. 648.34, F.S.; revising  
13          qualifications for bail bond agents; amending  
14          s. 648.355, F.S.; revising qualifications for  
15          temporary licenses; amending s. 648.36, F.S.;  
16          requiring licensees to maintain certain  
17          records; amending s. 648.381, F.S.; prescribing  
18          additional education requirements for certain  
19          persons seeking reexamination; amending s.  
20          648.382, F.S.; eliminating references to  
21          runners; requiring an affidavit regarding  
22          premiums owed; amending s. 648.384, F.S.;  
23          eliminating references to runners; amending s.  
24          648.385, F.S.; removing obsolete provisions;  
25          amending s. 648.386, F.S.; increasing certain  
26          education requirements; creating s. 648.387,  
27          F.S.; providing for the designation of primary  
28          bail bond agents; amending s. 648.388, F.S.;  
29          prescribing requirements for managing general  
30          agents; amending ss. 648.39, 648.41, F.S.;  
31          eliminating references to runners; amending s.

1 648.44, F.S.; prohibiting certain forms of  
2 solicitation and advertising; eliminating  
3 references to runners; amending s. 648.441,  
4 F.S.; eliminating references to runners and  
5 establishing a fine for certain violations;  
6 amending s. 648.442, F.S.; prescribing  
7 requirements relating to collateral security;  
8 prescribing requirements for the appointment of  
9 certain bail bond appointees who were  
10 previously appointed; amending s. 648.4425,  
11 F.S.; requiring agents to provide a statement  
12 of surrender; amending s. 648.45, F.S.;  
13 prohibiting the filing of false reports and  
14 other actions relating to reports; amending s.  
15 648.52, F.S.; increasing an administrative  
16 penalty; creating s. 648.525, F.S.; providing  
17 for civil administrative proceedings against  
18 licensees; amending s. 648.571, F.S.; providing  
19 procedures for the return of collateral;  
20 authorizing certain fees; providing a penalty;  
21 repealing s. 648.37, F.S., relating to  
22 qualifications of runners; providing  
23 severability; providing an effective date.

24  
25 Be It Enacted by the Legislature of the State of Florida:

26  
27 Section 1. Section 648.24, Florida Statutes, is  
28 created to read:

29 648.24 Declaration of public policy.--It is the public  
30 policy of this state and the intent of the Legislature that a  
31 bond for which fees or premiums are charged must be executed

1 by a bail bond agent licensed pursuant to chapter 648 in  
2 connection with the pretrial or appellate release of a  
3 criminal defendant and shall be construed as a commitment by  
4 and obligation upon the bail bond agent to ensure that the  
5 defendant appears at all subsequent criminal proceedings.

6 Section 2. Section 648.25, Florida Statutes, is  
7 amended to read:

8 648.25 Definitions.--~~As The following words when used~~  
9 ~~in this chapter, the term have the meanings respectively~~  
10 ~~ascribed to them in this section:~~

11 (1) "Bail bond agency" means:

12 (a) The location where a licensee maintains an office  
13 and where all records required by ss. 648.34 and 648.36 are  
14 maintained; or

15 (b) An entity that:

16 1. Charges a fee or premium to release an accused  
17 defendant or detainee from jail; or

18 2. Engages in or employs others to engage in any  
19 activity that may be performed only by a licensed and  
20 appointed bail bond agent.

21  
22 A person may not own, control, or otherwise have a pecuniary  
23 interest in a bail bond agency unless such individual is a  
24 licensed and appointed bail bond agent.

25 ~~(2)(1)~~ "Bail bond agent" means a limited surety agent  
26 or a professional bail bond agent as hereafter defined.

27 ~~(3)(2)~~ "Department" means the Department of Insurance.

28 ~~(4)(3)~~ "Managing general agent" means any individual,  
29 partnership, association, or corporation appointed or employed  
30 by an insurer to supervise or manage the bail bond business

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1 written in this state by limited surety agents appointed by  
2 the insurer.

3 (5)~~(4)~~ "Insurer" means any domestic, foreign, or alien  
4 surety company which has been authorized to transact surety  
5 business in this state.

6 ~~(5) "Agency" means any business location at which a  
7 licensed and appointed bail bond agent engages in any activity  
8 or employs individuals to engage in any activity which by law  
9 may be performed only by a licensed and appointed bail bond  
10 agent.~~

11 (6) "Limited surety agent" means any individual  
12 appointed by an insurer by power of attorney to execute or  
13 countersign bail bonds in connection with judicial proceedings  
14 who receives or is promised money or other things of value  
15 therefor.

16 (7) "Primary bail bond agent" means a licensed bail  
17 bond agent who is responsible for the overall operation and  
18 management of a bail bond agency location and whose  
19 responsibilities include hiring and supervising all  
20 individuals within that location. A bail bond agent may be  
21 designated as primary bail bond agent for only one bail bond  
22 agency location.

23 (8)~~(7)~~ "Professional bail bond agent" means any person  
24 who pledges United States currency, United States postal money  
25 orders, or cashier's checks as security for a bail bond in  
26 connection with a judicial proceeding and receives or is  
27 promised therefor money or other things of value.

28 ~~(8) "Runner" means a person employed by a bail bond  
29 agent, insurer, or managing general agent for the purpose of  
30 assisting the bail bond agent in presenting the defendant in  
31 court when required or employed by the bail bond agent to~~

1 ~~assist in the apprehension and surrender of the defendant to~~  
2 ~~the court or keeping the defendant under necessary~~  
3 ~~surveillance. This does not affect the right of a bail bond~~  
4 ~~agent or insurer to hire counsel or to obtain the assistance~~  
5 ~~of law enforcement officers.~~

6 (9) "Temporary bail bond agent" means a person  
7 employed by a bail bond agent or agency, insurer, or managing  
8 general agent, and such licensee has ~~shall have~~ the same  
9 authority as conferred and authorized by law upon a licensed  
10 bail bond agent, including ~~which shall include~~ presenting  
11 defendants in court; and ~~apprehending, arresting, and~~  
12 surrendering defendants to the proper authorities, while  
13 accompanied by a supervising bail bond agent or an agent from  
14 the same agency; and keeping defendants under necessary  
15 surveillance. ~~However, a temporary licensee may not shall not~~  
16 ~~have the authority to~~ execute or sign bonds, handle collateral  
17 receipts, or deliver bonds to appropriate authorities. A  
18 temporary licensee may not operate an agency or branch agency  
19 separate from the location of the supervising bail bond agent,  
20 managing general agent, or insurer by whom the licensee is  
21 employed. This does not affect the right of a bail bond agent  
22 or insurer to hire counsel or to obtain the assistance of law  
23 enforcement officers.

24 Section 3. Subsection (8) of section 648.27, Florida  
25 Statutes, is amended to read:

26 648.27 Licenses and appointments; general.--

27 (8) An application for a managing general agent's  
28 license must be made by an insurer who proposes to employ or  
29 appoint an individual, partnership, association, or  
30 corporation as a managing general agent. Such application  
31 shall contain the information required by s. 626.744, and the

1 applicant shall pay the same fee as a managing general agent  
2 licensed pursuant to that section. An individual who is a  
3 managing general agent must also be licensed as a bail bond  
4 agent. In the case of an entity, at least one owner, officer,  
5 or director at each office location must be licensed as a bail  
6 bond agent.

7 Section 4. Section 648.285, Florida Statutes, is  
8 created to read:

9 648.285 Bond agency; ownership requirements.--

10 (1) If the owner of a bail bond agency dies or becomes  
11 mentally incapacitated, a personal representative or legal  
12 guardian may be issued a temporary permit to manage the  
13 affairs of the estate or guardianship. Such person must  
14 appoint or maintain the appointment of a primary bail bond  
15 agent, as provided in s. 648.387, and may not engage in any  
16 activities as a licensed bail bond agent but must comply with  
17 s. 648.387 during the administration of the estate or  
18 guardianship. A temporary permit is valid for a maximum of 24  
19 months.

20 (2) Application for a temporary permit must be made by  
21 the personal representative or legal guardian upon statements  
22 and affidavits filed with the department on forms prescribed  
23 and furnished by it. The applicant must meet the  
24 qualifications for licensure as a bail bond agent, except for  
25 the residency, examination, education, and experience  
26 requirements.

27 Section 5. Section 648.29, Florida Statutes, is  
28 amended to read:

29 648.29 Build-up funds posted by bail bond agent.--

30 (1) All build-up funds pledged to indemnify an insurer  
31 which are posted by a bail bond agent or agency ~~or managing~~

1 ~~general agent, either~~ with the insurer ~~or managing general~~  
2 ~~agent representing such insurer,~~ must be held maintained in an  
3 individual build-up trust account for the ~~bail bond agent or~~  
4 agency by the insurer or the managing general agent in a  
5 FDIC-approved or FSLIC-approved bank or savings and loan  
6 association in this state, jointly in the name of the ~~bail~~  
7 ~~bond agent or agency~~ and the insurer surety or managing  
8 ~~general agent~~ or in trust for the ~~bail bond agent or agency~~ by  
9 the insurer. Such account must remain ~~surety or managing~~  
10 ~~general agent and is~~ open to inspection and examination by the  
11 department at all times. An accounting of all such funds shall  
12 be maintained which designates the amounts collected on each  
13 bond written.

14 (2) Build-up funds may not exceed 40 percent of the  
15 premium as established by the agent's contract agreement with  
16 the insurer or managing general agent. Build-up funds  
17 received shall be immediately deposited to the build-up trust  
18 account. Interest on such accounts shall accrue to the bail  
19 bond agent.

20 (3) Build-up funds are maintained as a trust fund  
21 created on behalf of a bail bond agent or agency, held by the  
22 insurer in a fiduciary capacity to be used to indemnify the  
23 insurer for losses and any other agreed-upon costs related to  
24 a bail bond executed by the agent. The build-up funds are the  
25 sole property of the agent or agency. Upon termination of the  
26 bail bond agency or agent's contract and discharge of open  
27 bond liabilities on the bonds written, build-up funds are due  
28 and payable to the bail bond agent or agency not later than 6  
29 months after final discharge of the open bond liabilities.

30 (4) Each insurer authorized to write bail bonds in  
31 this state and each managing general agent must furnish to the

1 department a certified copy of a statement listing each  
2 build-up trust account and the balance therein by March 1 of  
3 each year.

4 (5) Insurers must provide copies of build-up fund  
5 account bank statements to their agents and agencies.

6 Section 6. Section 648.30, Florida Statutes, is  
7 amended to read:

8 648.30 Licensure and appointment required.--

9 (1) A person may not act in the capacity of a bail  
10 bond agent or temporary bail bond agent, ~~or runner~~ or perform  
11 any of the functions, duties, or powers prescribed for bail  
12 bond agents or temporary bail bond agents ~~runners~~ under this  
13 chapter unless that person is qualified, licensed, and  
14 appointed as provided in this chapter.

15 (2) A ~~No~~ person may not ~~shall~~ represent himself or  
16 herself to be a bail enforcement agent, bounty hunter, or  
17 other similar title in this state.

18 (3) A ~~No~~ person, other than a certified law  
19 enforcement officer, may not ~~shall be authorized to~~ apprehend,  
20 detain, or arrest a principal on a bond, wherever issued,  
21 unless that person is qualified, licensed, and appointed as  
22 provided in this chapter or licensed as a bail bond agent or  
23 bail bond enforcement agent, or holds an equivalent license by  
24 the state where the bond was written.

25 (4) Any person who violates ~~any provision of~~ this  
26 section commits a felony of the third degree, punishable as  
27 provided in s. 775.082, s. 775.083, or s. 775.084.

28 Section 7. Section 648.31, Florida Statutes, is  
29 amended to read:

30 648.31 Appointment taxes and fees.--The department  
31 shall collect in advance all appointment taxes and fees for



1 the issuance of any appointment to a bail bond agent ~~or~~  
2 temporary bail bond agent, ~~or runner~~, as provided in s.  
3 624.501.

4 Section 8. Paragraphs (a) and (b) of subsection (2) of  
5 section 648.34, Florida Statutes, are amended to read:

6 648.34 Bail bond agents; qualifications.--

7 (2) To qualify as a bail bond agent, it must  
8 affirmatively appear at the time of application and throughout  
9 the period of licensure that the applicant has complied with  
10 the provisions of s. 648.355 and has obtained a temporary  
11 license pursuant to such section and:

12 (a) The applicant is a natural person who has reached  
13 the age of 18 years and holds a high school diploma or its  
14 equivalent.

15 (b) The applicant is a United States citizen or legal  
16 alien and a bona fide resident of this state. An individual  
17 who is a ~~bona fide~~ resident of this state shall be deemed to  
18 meet the residence requirement of this paragraph,  
19 notwithstanding the existence, at the time of application for  
20 license, of a license in the applicant's name on the records  
21 of another state as a resident licensee of such other state,  
22 if the applicant furnishes a letter of clearance satisfactory  
23 to the department that his or her resident licenses have been  
24 canceled or changed to a nonresident basis and that he or she  
25 is in good standing.

26 Section 9. Subsections (1), (3), (6), and (8) of  
27 section 648.355, Florida Statutes, are amended to read:

28 648.355 Temporary limited license as limited surety  
29 agent or professional bail bond agent; pending examination.--

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1           (1) The department may, in its discretion, issue a  
2 temporary license as a limited surety agent or professional  
3 bail bond agent, subject to the following conditions:

4           (a) The applicant is a natural person at least 18  
5 years of age and holds a high school diploma or its  
6 equivalent.

7           (b) The applicant is a United States citizen or legal  
8 alien and a bona fide resident of this state. An individual  
9 who is a ~~bona fide~~ resident of this state shall be deemed to  
10 meet the residence requirement of this paragraph,  
11 notwithstanding the existence, at the time of application for  
12 temporary license, of a license in the individual's name on  
13 the records of another state as a resident licensee of such  
14 other state, if the applicant furnishes a letter of clearance  
15 satisfactory to the department that the individual's resident  
16 licenses have been canceled or changed to a nonresident basis  
17 and that the individual is in good standing.

18           (c) The applicant is a person of high character and  
19 approved integrity and has never been convicted of or pleaded  
20 guilty or no contest to a felony, a crime involving moral  
21 turpitude, or a crime punishable by imprisonment of 1 year or  
22 more under the law of any state, territory, or country,  
23 whether or not a judgment or conviction is entered.

24           (d) Within 4 years prior to the date of application  
25 for a temporary license, the applicant has successfully  
26 completed a basic certification course in the criminal justice  
27 system, consisting of not less than 120 ~~80~~ hours of classroom  
28 instruction with a passing grade of 80 percent or higher and  
29 has successfully completed a correspondence course for bail  
30 bond agents approved by the department.

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1           (e) The applicant must be employed at the time of  
2 licensure application, and at all times throughout the  
3 existence of the temporary license, by only one licensed and  
4 appointed supervising bail bond agent, ~~managing general agent,~~  
5 ~~or authorized insurer~~, who supervises the work of the  
6 applicant and is responsible for the licensee's conduct in the  
7 bail bond business. The applicant must be appointed by the  
8 same insurer as the supervising bail bond agent. The  
9 supervising bail bond agent shall certify monthly to the  
10 department under oath, on a form prescribed by the department,  
11 the names and hours worked each week of all temporary bail  
12 bond agents. Filing a false certification is grounds for the  
13 immediate suspension of the license and imposition of a \$5,000  
14 administrative fine.

15           (f) The application must be accompanied by an  
16 affidavit verifying proposed ~~a certificate of~~ employment and a  
17 report as to the applicant's integrity and moral character on  
18 a form prescribed by the department and executed by the  
19 proposed employer.

20           (g) The applicant must ~~shall~~ file with the department  
21 statements by a least three reputable citizens who are  
22 residents of the same counties in which the applicant proposes  
23 to engage as a temporary licensee.

24           (h) The applicant's employer is responsible for the  
25 bail bonding acts of any licensee under this section.

26           (3) The temporary license shall be effective for 18  
27 months ~~a period of 1 year~~, subject to earlier termination at  
28 the request of the employer or if suspended or revoked by the  
29 department.

30           (6) After licensure as a temporary licensee for at  
31 least 12 ~~6~~ months, such licensee may file an application for

1 and become eligible for a regular bail bond agent's license  
2 based on the licensee's experience in the bail bond business  
3 and education pursuant to paragraph (1)(d) and, if otherwise  
4 qualified, take the required bail bond agent's licensure  
5 examination. The applicant and supervising bail bond agent  
6 must each file an affidavit under oath, on a form prescribed  
7 by the department, verifying the required employment of the  
8 temporary agent before issuance of the license.

9 (8)(a) A ~~Under the temporary license, the licensee has~~  
10 ~~shall have~~ the same authority as conferred and authorized by  
11 ~~the laws of this state upon~~ a licensed bail bond agent,  
12 including which shall include presenting defendants in court;  
13 apprehending, arresting, and surrendering defendants to the  
14 proper authorities;  
15 and keeping defendants under necessary  
16 surveillance. ~~However,~~ a temporary licensee must be  
17 accompanied by a supervising bail bond agent or an agent from  
18 the same agency when apprehending, arresting, or surrendering  
19 defendants to authorities. ~~however,~~

20 (b) A temporary licensee may ~~shall not have the~~  
21 ~~authority to~~ execute or sign bonds, handle collateral  
22 receipts, ~~or~~ deliver bonds to appropriate authorities, or. ~~A~~  
23 ~~temporary licensee may not~~ operate an agency or branch agency  
24 separate from the location of the supervising bail bond agent,  
25 managing general agent, or insurer by whom the licensee is  
26 employed.

27 Section 10. Section 648.36, Florida Statutes, is  
28 amended to read:

29 648.36 Bail bond agent's records.--Each licensee ~~Every~~  
30 ~~bail bond agent~~ must maintain in his or her office such  
31 records of bail bonds executed or countersigned by him or her  
to enable the department ~~public~~ to obtain all necessary

1 information concerning such bail bonds for at least 3 years  
2 after the liability of the surety has been terminated. Such  
3 records shall be open to examination, inspection, and  
4 photographic reproduction by the department or an authorized  
5 representative of the insurer or managing general agent, or  
6 agents of the department, at all times, and the department may  
7 at any time require the licensee to furnish to it, in such  
8 manner or form as it requires, any information concerning the  
9 bail bond business of such licensee.

10 Section 11. Section 648.381, Florida Statutes, is  
11 amended to read:

12 648.381 Reexamination.--Any applicant for licensure  
13 who has taken an examination and failed to make a passing  
14 grade, has failed to appear for the examination, or has failed  
15 to take or complete the examination at the time and place  
16 specified in the notice of the department may take additional  
17 examinations upon the filing of an application for  
18 reexamination, with applicable fees. The failure of an  
19 applicant to pass an examination or the failure to appear for  
20 the examination or to take or complete the examination does  
21 not preclude the applicant from taking subsequent  
22 examinations. A person who fails an examination three times  
23 must retake the 120-hour course and obtain a grade of 80  
24 percent or higher before sitting for the examination again.

25 Section 12. Section 648.382, Florida Statutes, is  
26 amended to read:

27 648.382 Appointment of bail bond agents and temporary  
28 bail bond agents, ~~and runners~~; effective date of  
29 appointment.--

30 (1) Each insurer appointing a bail bond agent and each  
31 insurer, managing general agent, or bail bond agent appointing

1 a temporary bail bond agent ~~or runner~~ in this state must file  
2 the appointment with the department and, at the same time, pay  
3 the applicable appointment fees and taxes. A person appointed  
4 under this section must hold a valid bail bond agent's or,  
5 temporary bail bond agent's, ~~or runner's~~ license.

6 (2) Prior to any appointment, an appropriate officer  
7 or official of the appointing insurer in the case of a bail  
8 bond agent or an insurer, managing general agent, or bail bond  
9 agent in the case of a temporary bail bond agent ~~or runner~~,  
10 must submit:

11 (a) A certified statement or affidavit to the  
12 department stating what investigation has been made concerning  
13 the proposed appointee and the proposed appointee's background  
14 and the appointing person's opinion to the best of his or her  
15 knowledge and belief as to the moral character, fitness, and  
16 reputation of the proposed appointee; ~~and~~

17 (b) An affidavit under oath on a form prescribed by  
18 the department, signed by the proposed appointee, stating that  
19 premiums are not owed to any insurer and that the appointee  
20 will discharge all outstanding forfeitures and judgments on  
21 bonds previously written. If the appointee does not satisfy or  
22 discharge such forfeitures or judgments, the former insurer  
23 shall file a notice, with supporting documents, with the  
24 appointing insurer, the former agent, and the department,  
25 stating under oath that the licensee has failed to timely  
26 satisfy forfeitures and judgments on bonds written and that  
27 the insurer has satisfied the forfeiture or judgment from its  
28 own funds. Upon receipt of such notification and supporting  
29 documents, the appointing insurer shall immediately cancel the  
30 licensee's appointment. The licensee may be reappointed only  
31 upon certification by the former insurer that all forfeitures

1 and judgments on bonds written by the licensee have been  
2 discharged. The appointing insurer or former agent may, within  
3 10 days, file a petition with the department seeking relief  
4 from this paragraph. Filing of the petition stays the duty of  
5 the appointing insurer to cancel the appointment until the  
6 department grants or denies the petition; and

7 (c) Any other information that the department  
8 reasonably requires concerning the proposed appointee.

9 (3) Prior to any appointment of a bail bond agent, the  
10 appointing insurer must certify to the department that the  
11 insurer will be bound by the acts of the bail bond agent  
12 acting within the scope of his or her appointment, and, in the  
13 case of a temporary bail bond agent ~~or runner~~, the appointing  
14 insurer, managing general agent, or bail bond agent, as the  
15 case may be, must certify to the department that he or she  
16 will supervise the temporary bail bond agent's ~~or runner's~~  
17 activities.

18 (4) Each appointing insurer, managing general agent,  
19 or bail bond agent must advise the department in writing  
20 within 5 days after receiving notice or learning that an  
21 appointee has pled guilty or nolo contendere or been found  
22 guilty of a felony or other offense punishable by imprisonment  
23 of 1 year or more under the law of any jurisdiction, whether  
24 judgment was entered or withheld by the court.

25 (5) A list of current appointments must be submitted  
26 to the department each month but in no case later than 45 days  
27 after the date of appointment. All appointments are effective  
28 as of the date indicated on the appointment form.

29 Section 13. Section 648.384, Florida Statutes, is  
30 amended to read:

31

1           648.384 Effect of expiration of appointment; bail bond  
2 agents ~~and runners.~~--

3           (1) Upon the expiration of any person's appointment as  
4 provided in s. 648.383, such person is without any authority  
5 to engage or attempt to engage in any activity requiring such  
6 appointment.

7           (2) If a bail bond agent fails to maintain an  
8 appointment with an insurer ~~or if a runner fails to maintain~~  
9 ~~an appointment with an insurer, managing general agent, or~~  
10 ~~bail bond agent~~ during any 48-month period, the bail bond  
11 agent ~~or runner~~ may not be granted a reappointment until he or  
12 she qualifies as a first-time applicant.

13           Section 14. Paragraph (a) of subsection (2) of section  
14 648.385, Florida Statutes, is amended to read:

15           648.385 Continuing education required; application;  
16 exceptions; requirements; penalties.--

17           (2)(a) ~~For compliance dates beginning in January 1997~~  
18 ~~and thereafter,~~Each person subject to the provisions of this  
19 chapter must complete a minimum of 14 hours of continuing  
20 education courses every 2 years in courses approved by the  
21 department. Compliance with continuing education requirements  
22 is a condition precedent to the issuance, continuation, or  
23 renewal of any appointment subject to the provisions of this  
24 chapter.

25           Section 15. Paragraph (a) of subsection (1) and  
26 paragraph (b) of subsection (4) of section 648.386, Florida  
27 Statutes, are amended to read:

28           648.386 Qualifications for prelicensing and continuing  
29 education schools and instructors.--

30           (1) SCHOOLS AND CURRICULUM FOR PRELICENSING  
31 SCHOOLS.--In order to be considered for approval and



1 certification as an approved limited surety agent and  
2 professional bail bond agent prelicensing school, such entity  
3 must:

4 (a)1. Offer a minimum of two 120-hour  
5 classroom-instruction ~~80-hour classroom instruction~~ basic  
6 certification courses in the criminal justice system per  
7 calendar year unless a reduced number of course offerings per  
8 calendar year is warranted in accordance with rules  
9 promulgated by the department; or

10 2. Offer a department-approved correspondence course  
11 pursuant to department rules.

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

13 (b) In order to obtain department approval as a  
14 supervising instructor, the following qualifications must be  
15 met:

16 1. During the past 15 ~~10~~ years, the person must have  
17 had at least 10 ~~5~~ years' experience as a manager or officer of  
18 a managing general agent in this state as prescribed in s.  
19 648.388;

20 2. During the past 15 ~~10~~ years, the person must have  
21 had at least 10 ~~5~~ years' experience as a manager or officer of  
22 an insurance company authorized to and actively engaged in  
23 underwriting bail in this state, provided there is a showing  
24 that the manager's or officer's experience is directly related  
25 to the bail bond industry; or

26 3. The person has been a licensed bail bond agent in  
27 this state for at least 10 years.

28 Section 16. Section 648.387, Florida Statutes, is  
29 created to read:

30 648.387 Primary bail bond agents; duties.--  
31

1           (1) The owner or operator of a bail bond agency shall  
2 designate a primary bail bond agent for each location, and  
3 shall file with the department the name and license number of  
4 the person and the address of the location on a form approved  
5 by the department. The designation of the primary bail bond  
6 agent may be changed if the department is notified  
7 immediately. Failure to notify the department within 10  
8 working days after such change is grounds for disciplinary  
9 action pursuant to s. 648.45.

10           (2) The primary bail bond agent is responsible for the  
11 overall operation and management of a bail bond agency  
12 location, whose responsibilities may include, without  
13 limitations, hiring and supervising of all individuals within  
14 the location, whether they deal with the public in the  
15 solicitation or negotiation of bail bond contracts or in the  
16 collection or accounting of moneys. A person may be designated  
17 as primary bail bond agent for only one location.

18           (3) The department may suspend or revoke the license  
19 of the owner, operator, and primary bail bond agent if a bail  
20 bond agency employs, contracts with, or uses the services of a  
21 person who has had a license denied or whose license is  
22 currently suspended or revoked. However, a person who has been  
23 denied a license for failure to pass a required examination  
24 may be employed to perform clerical or administrative  
25 functions for which licensure is not required.

26           (4) An owner, operator, or primary agent may not  
27 employ, contract with, or use the services of any person who  
28 has been charged with, found guilty of, or pled guilty or nolo  
29 contendere to a felony or a crime punishable by imprisonment  
30 of 1 year or more, without regard to whether there is an  
31 adjudication of guilt.

1           (5) A bail bond agency location may not conduct surety  
2 business unless a primary bail bond agent is designated at all  
3 times. The failure to designate a primary agent on a form  
4 prescribed by the department, within 10 working days after an  
5 agency's inception or a change of primary agent, is a  
6 violation of this chapter, punishable as provided in s.  
7 648.45.

8           Section 17. Section 648.388, Florida Statutes, is  
9 amended to read:

10           648.388 Insurer must appoint managing general  
11 agent.--Any insurer regularly engaged in the execution of bail  
12 bonds in this state shall have a managing general agent in  
13 this state to supervise its agents. Upon the appointment of a  
14 managing general agent, the insurer shall file with the  
15 department an affidavit under oath, executed by the appointee,  
16 certifying that the appointee does not owe any unpaid premiums  
17 to any insurer and does not have any unpaid judgments or  
18 forfeitures in any state. A managing general agent shall  
19 maintain an office in this state and maintain all records  
20 relating to bonds issued in this state.

21           Section 18. Section 648.39, Florida Statutes, is  
22 amended to read:

23           648.39 Termination of appointment of managing general  
24 agents, bail bond agents, and temporary bail bond agents,~~and~~  
25 ~~runners~~.--

26           (1) An insurer who terminates the appointment of a  
27 managing general agent, bail bond agent, or temporary bail  
28 bond agent,~~or runner~~ shall, within 10 days after such  
29 termination, file written notice thereof with the department  
30 together with a statement that it has given or mailed notice  
31 to the terminated agent ~~managing general agent, bail bond~~

1 ~~agent, temporary bail bond agent, or runner~~. Such notice filed  
2 with the department must state the reasons, if any, for such  
3 termination. Information so furnished the department is  
4 confidential and exempt from the provisions of s. 119.07(1).

5 (2) Each insurer shall, within 5 days after  
6 terminating the appointment of any managing general agent,  
7 bail bond agent, or temporary bail bond agent, ~~or runner~~, give  
8 written notice thereof to each clerk of the circuit court and  
9 sheriff with whom such person is registered.

10 (3) An insurer that terminates the appointment of a  
11 managing general agent, bail bond agent, or temporary bail  
12 bond agent, ~~or runner~~ may authorize such person to continue to  
13 attempt the arrest and surrender of a defendant for whom a  
14 surety bond had been written by the bail bond agent prior to  
15 termination and to seek discharge of forfeitures and judgments  
16 as provided in chapter 903.

17 Section 19. Section 648.41, Florida Statutes, is  
18 amended to read:

19 648.41 Termination of appointment of temporary bail  
20 bond agents ~~or runners~~.--A bail bond agent, insurer, or  
21 managing general agent terminating the appointment of a  
22 temporary bail bond agent ~~or runner~~ must, within 10 days, file  
23 written notice thereof with the department, together with a  
24 statement that notice has been given or mailed to the  
25 temporary bail bond agent ~~or runner~~. Such notice filed with  
26 the department shall state the reasons, if any, for such  
27 termination. Information so furnished the department is  
28 confidential and exempt from the provisions of s. 119.07(1).

29 Section 20. Section 648.44, Florida Statutes, is  
30 amended to read:

31 648.44 Prohibitions; penalty.--

1           (1) A bail bond agent ~~or~~ temporary bail bond agent  
2 ~~or runner~~ may not:

3           (a) Suggest or advise the employment of, or name for  
4 employment, any particular attorney to represent his or her  
5 principal.

6           (b) Directly or indirectly solicit business in or on  
7 the property or grounds of a jail, prison, or other place  
8 where prisoners are confined or in or on the property or  
9 grounds of any court. The term "solicitation" includes the  
10 distribution of business cards, print advertising, or other  
11 written or oral information directed to prisoners or potential  
12 indemnitors, unless a request is initiated by the prisoner or  
13 a potential indemnitor. Permissible print advertising in the  
14 jail is strictly limited to a listing in a telephone directory  
15 and the posting of the bail bond agent's or agency's name,  
16 address, and telephone number in a designated location within  
17 the jail.

18           (c) Initiate in-person or telephone solicitation after  
19 9:00 p.m. or before 8:00 a.m., in the case of domestic  
20 violence cases, at the residence of the detainee or the  
21 detainee's family. Any solicitation not prohibited by this  
22 chapter must comply with the telephone solicitation  
23 requirements in ss. 501.059(2) and (4), 501.613, and  
24 501.616(6).

25           (d)~~(e)~~ Wear or display any identification other than  
26 the department issued or approved license or approved  
27 department identification, which includes a citation of the  
28 licensee's arrest powers, in or on the property or grounds of  
29 a jail, prison, or other place where prisoners are confined or  
30 in or on the property or grounds of any court.

31

1           (e)~~(d)~~ Pay a fee or rebate or give or promise anything  
2 of value to a jailer, police officer, peace officer, or  
3 committing magistrate or any other person who has power to  
4 arrest or to hold in custody or to any public official or  
5 public employee in order to secure a settlement, compromise,  
6 remission, or reduction of the amount of any bail bond or  
7 estreatment thereof.

8           (f)~~(e)~~ Pay a fee or rebate or give anything of value  
9 to an attorney in a bail bond matter, except in defense of any  
10 action on a bond.

11           (g)~~(f)~~ Pay a fee or rebate or give or promise anything  
12 of value to the principal or anyone in his or her behalf.

13           (h)~~(g)~~ Participate in the capacity of an attorney at a  
14 trial or hearing of one on whose bond he or she is surety.

15           (i)~~(h)~~ Loiter in or about a jail, courthouse, or where  
16 prisoners are confined.

17           (j)~~(i)~~ Accept anything of value from a principal for  
18 providing a bail bond except the premium and transfer fee  
19 authorized by the department, except that the bail bond agent  
20 may accept collateral security or other indemnity from the  
21 principal or another person in accordance with the provisions  
22 of s. 648.442, together with documentary stamp taxes, if  
23 applicable. No fees, expenses, or charges of any kind shall be  
24 permitted to be deducted from the collateral held or any  
25 return premium due, except as authorized by this chapter or  
26 rule of the department. A bail bond agent may, upon written  
27 agreement with another party, receive a fee or compensation  
28 for returning to custody an individual who has fled the  
29 jurisdiction of the court or caused the forfeiture of a bond.

30  
31

1           ~~(k)(j)~~ Write more than one power of attorney per  
2 charge on a bond, except in the case of a cosurety, unless the  
3 power of attorney prohibits a cosurety.

4           ~~(l)(k)~~ Execute a bond in this state on his or her own  
5 behalf.

6           ~~(m)(l)~~ Execute a bond in this state if a judgment has  
7 been entered on a bond executed by the bail bond agent, which  
8 has remained unpaid for 35 days, unless the full amount of the  
9 judgment is deposited with the clerk in accordance with s.  
10 903.27(5).

11           ~~(n)(m)~~ Make a statement or representation to a court,  
12 unless such statement or representation is under oath. Such  
13 statement or representation may not be false, misleading, or  
14 deceptive.

15           ~~(o)~~ Attempt to collect, through threat or coercion,  
16 amounts due for the payment of any indebtedness related to the  
17 issuance of a bail bond in violation of s. 559.72.

18           ~~(p)~~ Conduct bail bond business with any person, other  
19 than the defendant, on the grounds of the jail or courthouse  
20 for the purpose of executing a bond.

21           (2) The following persons or classes shall not be bail  
22 bond agents, temporary bail bond agents, ~~runners~~, or employees  
23 of a bail bond agent or a bail bond business and shall not  
24 directly or indirectly receive any benefits from the execution  
25 of any bail bond:

26           (a) Jailers or persons employed in any jail.

27           (b) Police officers or employees of any police  
28 department or law enforcement agency.

29           (c) Committing magistrates, employees of a court, or  
30 employees of the clerk of any court.

31

1           (d) Sheriffs and deputy sheriffs or employees of any  
2 sheriff's department.

3           (e) Attorneys.

4           (f) Persons having the power to arrest or persons who  
5 have authority over or control of federal, state, county, or  
6 municipal prisoners.

7           (3) A bail bond agent may not sign or countersign in  
8 blank any bond, give a power of attorney to, or otherwise  
9 authorize, anyone to countersign his or her name to bonds  
10 unless the person so authorized is a licensed and appointed  
11 bail bond agent directly employed by the bail bond agent  
12 giving such power of attorney.

13           (4) A place of business, including a branch office,  
14 may not be established, opened, or maintained unless it is  
15 under the active full-time charge of a licensed and appointed  
16 bail bond agent.

17           (5) Except as between licensed and appointed bail bond  
18 agents, a bail bond agent may not divide with others, or share  
19 in, any commissions payable on account of any bail bond.

20           (6)(a) No bail bond agency shall advertise as or hold  
21 itself out to be a bail bond or surety company.

22           (b) Any misleading or false advertisement or deceptive  
23 trade practice is prohibited as provided in part IX of chapter  
24 626.

25           (c) The advertisement of reduced premium rates is  
26 prohibited.

27           (d) After October 1, 2002, a bail bond agency may not  
28 use a name that implies a reduced rate of premium.

29           (e)1. A bail bond agent may not make material  
30 misrepresentations or omissions in statements or use  
31 advertisements that constitute material misrepresentations of



1 facts, create unjust expectations concerning services, or make  
2 improper comparisons.

3 2. Bail bond agents may not own or advertise under  
4 firm names that are false, misleading, or deceptive, or use  
5 trade names that imply a connection with any government  
6 agency.

7 3. A bail bond agent may not use any advertisement or  
8 advertise under any name that includes the word "free".

9 4. A bail bond agent may not advertise under a trade  
10 name unless the name and address appears on the agent's  
11 letterhead or business cards. Such name must be registered  
12 with the department.

13 (7) Any permissible advertising by a bail bond agent  
14 or agency must include the address of record filed with the  
15 department.

16 (8)(a) A person who has been convicted of or who has  
17 pleaded guilty or no contest to a felony or a crime involving  
18 moral turpitude or a crime punishable by imprisonment of 1  
19 year or more under the law of any state, territory, or  
20 country, regardless of whether adjudication of guilt was  
21 withheld, may not act in any capacity for a bail bond agency  
22 or participate as a director, officer, manager, agent,  
23 contractor, or employee of any bail bond agency or office  
24 thereof or exercise direct or indirect control in any manner  
25 in such agency or office or own shares in any closely held  
26 corporation which has any interest in any bail bond business.  
27 Such restrictions on engaging in the bail bond business shall  
28 continue to apply during a pending appeal.

29 (b) Any person who violates the provisions of  
30 paragraph (a) or any person who knowingly permits a person who  
31 has been convicted of or who has pleaded guilty or no contest

1 to a crime as described in paragraph (a) to engage in the bail  
2 bond business as prohibited in paragraph (a) commits a felony  
3 of the third degree, punishable as provided in s. 775.082, s.  
4 775.083, or s. 775.084.

5 (c) Any law enforcement agency, state attorney's  
6 office, court clerk, or insurer that is aware that a bail bond  
7 agent or, temporary bail bond agent, ~~or runner~~ has been  
8 convicted of or who has pleaded guilty or no contest to a  
9 crime as described in paragraph (a) shall notify the  
10 department of this fact.

11 (d) Upon the filing of an information or indictment  
12 against a bail bond agent or, temporary bail bond agent, ~~or~~  
13 ~~runner~~, the state attorney or clerk of the circuit court shall  
14 immediately furnish the department a certified copy of the  
15 information or indictment.

16 (9)(a) Any person who violates any provisions of  
17 paragraph (1)(d), paragraph (1)(e), paragraph (1)(f),  
18 paragraph (1)(i), or paragraph (1)(m) or subsection (2)  
19 commits a felony of the third degree, punishable as provided  
20 in s. 775.082, s. 775.083, or s. 775.084.

21 (b) Any person who violates the provisions of  
22 paragraph (1)(a), paragraph (1)(b), paragraph (1)(g),  
23 paragraph (1)(j), ~~or~~ paragraph (1)(l), paragraph (1)(n),  
24 paragraph (1)(o), subsection (3), subsection (4), or  
25 subsection (5) commits a misdemeanor of the first degree,  
26 punishable as provided in s. 775.082 or s. 775.083.

27 Section 21. Section 648.441, Florida Statutes, is  
28 amended to read:

29 648.441 Furnishing supplies to unlicensed bail bond  
30 agent prohibited; civil liability and penalty.--

31

1           (1) An insurer, managing general agent, bail bond  
2 agent, or temporary bail bond agent, ~~or runner~~ appointed under  
3 this chapter may not furnish to any person any blank forms,  
4 applications, stationery, business card, or other supplies to  
5 be used in soliciting, negotiating, or effecting bail bonds  
6 until such person has received from the department a license  
7 to act as a bail bond agent and is appointed by the insurer.  
8 This section does not prohibit an unlicensed employee, under  
9 the direct supervision and control of a licensed and appointed  
10 bail bond agent, from possessing or executing in the bail bond  
11 agency, any forms, except for powers of attorney, bond forms,  
12 and collateral receipts, while acting within the scope of his  
13 or her employment.

14           (2) Any insurer, licensee, or appointee who furnishes  
15 to any bail bond agent or other person not named or appointed  
16 by the insurer represented any of the supplies mentioned in  
17 subsection (1) and accepts any bail bond business from or  
18 writes any bail bond business for such bail bond agent,  
19 person, or agency is subject to civil liability to any insured  
20 of such insurer or indemnitor to the same extent and in the  
21 same manner as if such bail bond agent or other person had  
22 been appointed or authorized by the insurer, managing general  
23 agent, or bail bond agent to act in its or his or her behalf  
24 by the department.

25           (3) Any person who violates this section commits a  
26 misdemeanor of the first degree, punishable as provided in s.  
27 775.082 or s. 775.083, except that the violator is subject to  
28 a fine not to exceed \$5,000 in addition to any term of  
29 imprisonment.

30           Section 22. Section 648.442, Florida Statutes, is  
31 amended to read:

1           648.442 Collateral security.--  
2           (1) Collateral security or other indemnity accepted by  
3 a bail bond agent, except a promissory note or an indemnity  
4 agreement, shall be returned upon final termination of  
5 liability on the bond. Such collateral security or other  
6 indemnity required by the bail bond agent must be reasonable  
7 in relation to the amount of the bond. Collateral security may  
8 not be used by the bail bond agent for personal benefit or  
9 gain and must be returned in the same condition as received.  
10 A bail bond agent may accept collateral security in excess of  
11 \$50,000 cash per bond, provided any amount over \$50,000 cash  
12 is payable to the insurer in the form of a cashier's check,  
13 United States postal money order, certificates of deposit, or  
14 wire transfer and is remitted to and held by the insurer. A  
15 copy of IRS Form 8300 must be retained as part of the  
16 defendant's file if it is otherwise required. A quit-claim  
17 deed for property may not be taken as collateral.Other  
18 acceptable forms of security or indemnity may consist of the  
19 following:  
20           (a) A promissory note;  
21           (b) An indemnity agreement;  
22           (c) A real property mortgage in the name of the  
23 insurer;  
24           (d) Any Uniform Commercial Code filing; or  
25           (e) Any other type of security approved by the  
26 department. The department may approve other security only if,  
27 after considering the liquidity and other characteristics of  
28 the security, it determines that the security is of a type  
29 which increases the probability that the defendant will in  
30 fact appear in court or increases the probability that the  
31

1 defendant will be subsequently apprehended by the bail bond  
2 agent.

3 (2) When a bail bond agent accepts collateral, a  
4 written, numbered receipt shall be given, and this receipt  
5 shall give in detail a full account of the collateral  
6 received. The bail bond agent shall also give copies of  
7 documents rendered under subsection (1) to the indemnitor.

8 (3) ~~Such~~ Collateral security shall be received and  
9 held in the insurer's name by the bail bond agent in a  
10 fiduciary capacity and, prior to any forfeiture of bail, shall  
11 be kept separate and apart from any other funds or assets of  
12 such bail bond agent. When collateral security in excess of  
13 \$5,000 cash or its equivalent is received by a bail bond  
14 agent, the entire amount shall be immediately forwarded to the  
15 insurer ~~or managing general agent~~. Such collateral security  
16 may be placed in an interest-bearing account to accrue to the  
17 benefit of the person giving the collateral security, and the  
18 bail bond agent, insurer, or managing general agent may not  
19 make any pecuniary gain on the collateral security deposited.  
20 Any such account shall be in a depository office of a  
21 financial institution located in this state. The insurer shall  
22 be liable for all collateral received. If the bail bond agent  
23 or managing general agent fails to return the collateral to  
24 the indemnitor upon final termination of liability on the  
25 bond, the surety shall be liable for the collateral and shall  
26 return the actual collateral to the indemnitor or, in the  
27 event that the surety cannot locate the collateral, the surety  
28 shall pay the indemnitor pursuant to the provisions of this  
29 section.

30 (4) When the obligation of the surety on the bond or  
31 bonds has been released in writing by the court, the

1 collateral shall be returned to the rightful owner named in  
2 the collateral receipt unless another disposition is provided  
3 for by legal assignment of the right to receive the collateral  
4 to another person.

5 (5) If a forfeiture occurs, the agent or insurer shall  
6 give 10 days' written notice of intent to convert the  
7 collateral deposit into cash to satisfy the forfeiture to the  
8 indemnitor and principal. Notice shall be sent by certified  
9 mail to the last known address of the indemnitor and  
10 principal.

11 (6) The bail bond agent or insurer must convert the  
12 collateral to cash within a reasonable period of time and  
13 return that which is in excess of the face value of the bond  
14 minus the actual and reasonable expenses of converting the  
15 collateral to cash. In no event shall these expenses exceed  
16 20 ~~10~~ percent of the face value of the bond. However, upon  
17 motion and proof that the actual, reasonable expenses exceed  
18 20 ~~10~~ percent, the court may allow recovery of the full amount  
19 of such actual, reasonable expenses. If there is a remission  
20 of a forfeiture, which had required the surety to pay the bond  
21 to the court, the surety shall pay to the indemnitor the value  
22 of any collateral received for the bond, minus any actual  
23 expenses and costs permitted herein.

24 (7) No bail bond agent or insurer shall solicit or  
25 accept a waiver of any of the provisions of this section or  
26 enter into any agreement as to the value of the collateral.

27 (8) Prior to the appointment of a bail bond agent who  
28 is currently or was previously appointed by another insurer,  
29 the bail bond agent must file with the department a sworn and  
30 notarized affidavit, on a form prescribed by the department,  
31 stating that:

1           (a) There has been no loss, misappropriation,  
2 conversion, or theft of any collateral being held by the agent  
3 in trust for any insurer by which the agent is currently or  
4 was previously appointed; and

5           (b) All collateral being held in trust by the agent  
6 and all records for any insurer by which the agent is  
7 currently or was previously appointed are available for  
8 immediate audit and inspection by the department, the insurer,  
9 or the managing general agent, and will upon demand of the  
10 department or insurer be transmitted to the insurer for whom  
11 the collateral is being held in trust.

12           ~~(9)(8)~~ The department shall establish by rule the form  
13 of the affidavit and the statement identifying the amount and  
14 source of the security as specified in s. 903.14.

15           ~~(10)(9)~~ An indemnity agreement may not be entered into  
16 between a principal and either a surety or any agent of the  
17 surety, and an application may not be accepted either by a  
18 bail bond agent engaged in the bail bond business or by a  
19 surety company for a bail bond in which an indemnity agreement  
20 is required between a principal and either a surety or any  
21 agent of such surety, unless the indemnity agreement reads as  
22 follows: "For good and valuable consideration, the  
23 undersigned principal agrees to indemnify and hold harmless  
24 the surety company or its agent for all losses not otherwise  
25 prohibited by law or by rules of the Department of Insurance."

26           ~~(11)(10)~~ Any person who violates this section is  
27 guilty of a felony of the third degree, punishable as provided  
28 in s. 775.082, s. 775.083, or s. 775.084.

29           Section 23. Section 648.4425, Florida Statutes, is  
30 amended to read:

31           648.4425 Notice.--

1           (1) Upon issuing a bond, the bail bond agent shall  
2 provide to the principal and, if applicable, to the party  
3 rendering collateral or indemnifying the surety ~~principal~~ an  
4 informational notice which shall include:

5           (a) A statement noting with particularity the  
6 restrictions, if any, placed on the principal as a condition  
7 of the bond;

8           (b) A statement of the bail bond agent's powers  
9 relating to the cancellation of the bond and recommitment of  
10 the principal; and

11           (c) The name, address, and telephone number of the  
12 department for complaints or inquiries.

13           (2) Any bail bond agent that surrenders or recommits a  
14 defendant must provide the defendant with a statement of  
15 surrender on a department-prescribed form. The statement must  
16 be signed by the agent and must state the reason for  
17 surrender. The statement must be attached to the surrender  
18 form with a copy provided to the defendant and a copy  
19 maintained by the agent in the defendant's file.

20           ~~(3)~~(2) The department shall prescribe forms to  
21 administer this section.

22           Section 24. Subsection (2) of section 648.45, Florida  
23 Statutes, is amended to read:

24           648.45 Actions against a licensee; suspension or  
25 revocation of eligibility to hold a license.--

26           (2) The department shall deny, suspend, revoke, or  
27 refuse to renew any license or appointment issued under this  
28 chapter or the insurance code, and it shall suspend or revoke  
29 the eligibility of any person to hold a license or appointment  
30 under this chapter or the insurance code, for any violation of  
31 the laws of this state relating to bail or any violation of



1 the insurance code or if the person ~~for any of the following~~  
2 ~~causes:~~

3 (a) Lacks ~~Lack~~ of one or more of the qualifications  
4 specified in this chapter for a license or appointment.

5 (b) Has made a material misstatement,  
6 misrepresentation, or fraud in obtaining a license or  
7 appointment, or in attempting to obtain a license or  
8 appointment.

9 (c) Has failed ~~Failure~~ to pass any examination  
10 required under this chapter.

11 (d) Has willfully used ~~Willful use~~, or intended the  
12 use, of the license or appointment to circumvent any of the  
13 requirements or prohibitions of this chapter or the insurance  
14 code.

15 (e) Has demonstrated lack of fitness or  
16 trustworthiness to engage in the bail bond business.

17 (f) Has demonstrated lack of reasonably adequate  
18 knowledge and technical competence to engage in the  
19 transactions authorized by the license or appointment.

20 (g) Has engaged in fraudulent or dishonest practices  
21 in the conduct of business under the license or appointment.

22 (h) Is guilty of misappropriation, conversion, or  
23 unlawful withholding of moneys belonging to a surety, a  
24 principal, or others and received in the conduct of business  
25 under a license.

26 (i) Is guilty of rebating or offering to rebate, or  
27 unlawfully dividing or offering to divide, any commission, in  
28 the case of a limited surety agent, or premiums, in the case  
29 of a professional bail bond agent.

30 (j) Has willfully failed ~~Willful failure~~ to comply  
31 with or willfully violated ~~willful violation~~ of any proper

1 order or rule of the department or willfully violated ~~willful~~  
2 ~~violation of~~ any provision of this chapter or the insurance  
3 code.

4 (k) Has ~~Having~~ been found guilty of, or has ~~having~~  
5 pleaded guilty or no contest to a felony, a crime involving  
6 moral turpitude, or a crime punishable by imprisonment of 1  
7 year or more under the law of any state, territory, or  
8 country, whether or not a judgment or conviction has been  
9 entered.

10 (l) Has demonstrated lack of good faith in carrying  
11 out contractual obligations and agreements.

12 (m) Has failed ~~Failure~~ to perform a contractual  
13 obligation or agreement with a managing general agent or  
14 insurer which results in an unrecovered loss due to nonpayment  
15 of a forfeiture or judgment by the licensee.

16 (n) Has failed ~~Failure~~ to return collateral.

17 (o)1. Has signed and filed a report or record in the  
18 capacity of an agent which the licensee knows to be false or  
19 misleading;

20 2. Has willfully failed to file a report or record  
21 required by state or federal law;

22 3. Has willfully impeded or obstructed such filing; or

23 4. Has induced another person to impede or obstruct  
24 such filing.

25 (p) Has demonstrated a course of conduct or practices  
26 which indicates that the licensee is incompetent, negligent,  
27 or dishonest or that property or rights of clients cannot  
28 safely be entrusted to him or her.

29 Section 25. Subsection (1) of section 648.52, Florida  
30 Statutes, is amended to read:

31 648.52 Administrative fine.--

1           (1) If, pursuant to the procedure described in s.  
2 648.46, the department finds that one or more causes exist for  
3 the suspension of, revocation of, or refusal to renew or  
4 continue any license or appointment issued under this chapter,  
5 the department may, in its discretion, in lieu of or in  
6 addition to such suspension, revocation, or refusal, and  
7 except on a second offense, impose upon the licensee an  
8 administrative penalty in an amount up to ~~\$5,000~~<sup>\$500</sup> or, if  
9 the department has found willful misconduct or willful  
10 violation on the part of the licensee, ~~\$20,000~~<sup>\$2,500</sup>. The  
11 administrative penalty may, in the discretion of the  
12 department, be increased by an amount equal to any commissions  
13 or other pecuniary benefits received by or accruing to the  
14 credit of the licensee in connection with any transaction  
15 related to the grounds for suspension, revocation, or refusal.

16           Section 26. Section 648.525, Florida Statutes, is  
17 created to read:

18           648.525 Civil assessment.--

19           (1) The department may initiate a civil administrative  
20 proceeding against a licensee who fails to comply with the  
21 solicitation requirements of this chapter.

22           (2) The burden of proof in such proceedings is by a  
23 preponderance of the evidence. Upon a finding that a licensee  
24 has failed to properly comply, an assessment of \$5,000 shall  
25 be ordered for each act of improper solicitation which  
26 assessment shall be payable within 30 days after the date of  
27 the final order.

28           (3) The civil assessment is a civil remedy for conduct  
29 that harms the consuming public and that is considered an  
30 unfair method of competition, and is not a penalty or

31

1 administrative fine. Remedies under this section are in  
2 addition to any other remedies available at law.

3 Section 27. Section 648.571, Florida Statutes, is  
4 amended to read:

5 648.571 Failure to return collateral; penalty.--

6 (1) A bail bond agent who has taken collateral or an  
7 insurer or managing general agent who holds collateral as  
8 security for a bail bond shall, upon demand, make a written  
9 request for a discharge of the bond to be delivered to the  
10 surety or the surety's agent ~~of the surety~~. A copy of the  
11 written request for discharge must be given to the indemnitor  
12 or the person making the request for the collateral, and a  
13 copy must be maintained in the agent's file. If a discharge is  
14 provided to the surety or the surety's agent ~~of the surety~~  
15 pursuant to chapter 903, the collateral shall be returned to  
16 the indemnitor within 21 days after the ~~of said discharge is~~  
17 ~~being~~ provided.

18 (2) Upon demand, following the written request for  
19 discharge and upon diligent inquiry by the surety or ~~the~~  
20 surety's agent ~~of the surety~~ to determine whether that the  
21 bond has been discharged, the failure of the court to provide  
22 a written discharge to the surety or surety's ~~the agent of the~~  
23 ~~surety~~ pursuant to chapter 903 within 7 days automatically  
24 ~~cancels, shall cause the cancellation of the bond, by~~  
25 ~~operation of law~~ and the collateral shall be returned to the  
26 indemnitor within 21 days after ~~of~~ the written request for  
27 discharge.

28 (3)(a) Fees or ~~other~~ charges ~~of any nature~~ other than  
29 those provided ~~as outlined~~ in this chapter or by rule of the  
30 department may not be deducted from the collateral due.

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1           (b)1. The bail bond agent may charge a credit card fee  
2 for payment of collateral if the fee is clearly shown on the  
3 collateral receipt and is acknowledged by the person tendering  
4 the credit card.

5           2. The prevailing schedule of credit card fees must be  
6 conspicuously posted in the lobby of the bail bond agency and  
7 a copy must be provided to the person tendering the credit  
8 card.~~However,~~

9           (c) Allowable expenses incurred in apprehending a the  
10 ~~apprehension of the~~ defendant because of a bond forfeiture of  
11 ~~bond~~ or judgment under s. 903.29 may be deducted if such  
12 expenses are accounted for. The failure to return collateral  
13 under these terms ~~is shall be~~ punishable as follows:

14           1.(1) If in the event the collateral is of a value of  
15 less than \$100, as provided in s. 775.082(4)(a).

16           2.(2) If in the event the collateral is of a value of  
17 \$100 or more, as provided in s. 775.082(3)(d).

18           3.(3) If in the event the collateral is of a value of  
19 \$1,500 or more, as provided in s. 775.082(3)(c).

20           4. If in the event the collateral is of a value of  
21 \$10,000 or more, as provided in s. 775.082(3)(b).

22           (4) In addition to the criminal penalties and any  
23 other penalties provided in this chapter, the department shall  
24 impose against any person violating this chapter an  
25 administrative fine of five times the dollar amount of the  
26 collateral.

27           Section 28. Section 648.37, Florida Statutes, is  
28 repealed.

29           Section 29. If any provision of this act or its  
30 application to any person or circumstance is held invalid, the  
31 invalidity does not affect other provisions or applications of

1 the act which can be given effect without the invalid  
2 provision or application, and to this end the provisions of  
3 this act are declared severable.

4 Section 30. This act shall take effect July 1, 2002.

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7 SENATE SUMMARY

8 Revises ch. 648, F.S., relating to bail bond agents and  
9 runners. (See bill for details.)

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