

By the Committee on Banking and Insurance; and Senator Silver

311-1986-02

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 ss.
20 648.382, 648.383, F.S.; eliminating references
21 to 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 amending ss. 624.501, 624.523, F.S.;
22 eliminating references to runners; repealing s.
23 648.37, F.S., relating to qualifications of
24 runners; providing severability; providing an
25 effective date.

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

28
29 Section 1. Section 648.24, Florida Statutes, is
30 created to read:

31

1 648.24 Declaration of public policy.--It is the public
2 policy of this state and the intent of the Legislature that a
3 bond for which fees or premiums are charged must be executed
4 by a bail bond agent licensed pursuant to chapter 648 in
5 connection with the pretrial or appellate release of a
6 criminal defendant and shall be construed as a commitment by
7 and obligation upon the bail bond agent to ensure that the
8 defendant appears at all subsequent criminal proceedings.

9 Section 2. Section 648.25, Florida Statutes, is
10 amended to read:

11 648.25 Definitions.--As The following words when used
12 in this chapter, the term have the meanings respectively
13 ascribed to them in this section:

14 (1) "Bail bond agency" means:

15 (a) The building where a licensee maintains an office
16 and where all records required by ss. 648.34 and 648.36 are
17 maintained; or

18 (b) An entity that:

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

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

24 (2)(1) "Bail bond agent" means a limited surety agent
25 or a professional bail bond agent as hereafter defined.

26 (3)(2) "Department" means the Department of Insurance.

27 (4)(3) "Managing general agent" means any individual,
28 partnership, association, or corporation appointed or employed
29 by an insurer to supervise or manage the bail bond business
30 written in this state by limited surety agents appointed by
31 the insurer.

1 (5)~~(4)~~ "Insurer" means any domestic, foreign, or alien
2 surety company which has been authorized to transact surety
3 business in this state.

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

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

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

21 ~~(8)~~~~(7)~~ "Professional bail bond agent" means any person
22 who pledges United States currency, United States postal money
23 orders, or cashier's checks as security for a bail bond in
24 connection with a judicial proceeding and receives or is
25 promised therefor money or other things of value.

26 ~~(8) "Runner" means a person employed by a bail bond~~
27 ~~agent, insurer, or managing general agent for the purpose of~~
28 ~~assisting the bail bond agent in presenting the defendant in~~
29 ~~court when required or employed by the bail bond agent to~~
30 ~~assist in the apprehension and surrender of the defendant to~~
31 ~~the court or keeping the defendant under necessary~~

1 ~~surveillance. This does not affect the right of a bail bond~~
2 ~~agent or insurer to hire counsel or to obtain the assistance~~
3 ~~of law enforcement officers.~~

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

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

24 648.27 Licenses and appointments; general.--

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

1 managing general agent must also be licensed as a bail bond
2 agent. In the case of an entity, at least one owner, officer,
3 or director at each office location must be licensed as a bail
4 bond agent.

5 Section 4. Section 648.285, Florida Statutes, is
6 created to read:

7 648.285 Bond agency; ownership requirements.--

8 (1) A person may not own, control, or otherwise have a
9 pecuniary interest in a bailbond agency unless such individual
10 is a licensed and appointed bail bond agent. Any agency that
11 is not in compliance with this subsection shall be subject to
12 the issuance of an immediate final order of suspension of all
13 operations until the agency achieves compliance.

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

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

30 Section 5. Section 648.29, Florida Statutes, is
31 amended to read:

1 648.29 Build-up funds posted by bail bond agent.--
2 (1) All build-up funds pledged to indemnify an insurer
3 which are posted by a bail bond agent or agency ~~or managing~~
4 ~~general agent, either with the insurer or managing general~~
5 ~~agent representing such insurer,~~ must be held maintained in an
6 individual build-up trust account for the ~~bail bond agent~~ or
7 agency ~~by the insurer or the managing general agent~~ in a
8 FDIC-approved or FSLIC-approved bank or savings and loan
9 association in this state, jointly in the name of the ~~bail~~
10 ~~bond agent~~ or agency and the insurer ~~surety or managing~~
11 ~~general agent~~ or in trust for the ~~bail bond agent~~ or agency by
12 the insurer. Such account must remain ~~surety or managing~~
13 ~~general agent and is~~ open to inspection and examination by the
14 department at all times. An accounting of all such funds shall
15 be maintained which designates the amounts collected on each
16 bond written.
17 (2) Build-up funds may not exceed 40 percent of the
18 premium as established by the agent's contract agreement with
19 the insurer or managing general agent. Build-up funds
20 received shall be immediately deposited to the build-up trust
21 account. Interest on such accounts shall accrue to the bail
22 bond agent.
23 (3) Build-up funds are maintained as a trust fund
24 created on behalf of a bail bond agent or agency, held by the
25 insurer in a fiduciary capacity to be used to indemnify the
26 insurer for losses and any other agreed-upon costs related to
27 a bail bond executed by the agent. The build-up funds are the
28 sole property of the agent or agency. Upon termination of the
29 bail bond agency or agent's contract and discharge of open
30 bond liabilities on the bonds written, build-up funds are due
31

1 and payable to the bail bond agent or agency not later than 6
2 months after final discharge of the open bond liabilities.

3 (4) Each insurer authorized to write bail bonds in
4 this state and each managing general agent must furnish to the
5 department a certified copy of a statement listing each
6 build-up trust account and the balance therein by March 1 of
7 each year.

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

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

12 648.30 Licensure and appointment required.--

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

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

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

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

1 Section 7. Section 648.31, Florida Statutes, is
2 amended to read:

3 648.31 Appointment taxes and fees.--The department
4 shall collect in advance all appointment taxes and fees for
5 the issuance of any appointment to a bail bond agent or,
6 temporary bail bond agent, ~~or runner~~, as provided in s.
7 624.501.

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

10 648.34 Bail bond agents; qualifications.--

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

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

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

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

1 648.355 Temporary limited license as limited surety
2 agent or professional bail bond agent; pending examination.--

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

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

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

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

26 (d) Within 4 years prior to the date of application
27 for a temporary license, the applicant has successfully
28 completed a basic certification course in the criminal justice
29 system, consisting of not less than 120 ~~80~~ hours of classroom
30 instruction with a passing grade of 80 percent or higher and
31

1 has successfully completed a correspondence course for bail
2 bond agents approved by the department.

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

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

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

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

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

1 (6) After licensure as a temporary licensee for at
2 least 12 ~~6~~ months, such licensee may file an application for
3 and become eligible for a regular bail bond agent's license
4 based on the licensee's experience in the bail bond business
5 and education pursuant to paragraph (1)(d) and, if otherwise
6 qualified, take the required bail bond agent's licensure
7 examination. The applicant and supervising bail bond agent
8 must each file an affidavit under oath, on a form prescribed
9 by the department, verifying the required employment of the
10 temporary agent before issuance of the license.

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

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

29 Section 10. Section 648.36, Florida Statutes, is
30 amended to read:

31 648.36 Bail bond agent's records.--Each licensee ~~Every~~
~~bail bond agent~~ must maintain in his or her office such

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

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

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

27 Section 12. Section 648.382, Florida Statutes, is
28 amended to read:

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

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

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

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

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

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

9 (c) Any other information that the department
10 reasonably requires concerning the proposed appointee.

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

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

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

1 Section 13. Section 648.383, Florida Statutes, is
2 amended to read:

3 648.383 Renewal, continuation, reinstatement, and
4 termination of appointment; bail bond agents ~~and runners~~--

5 (1) The appointment of a bail bond agent ~~or runner~~
6 shall continue in force unless suspended, revoked, or
7 otherwise terminated, subject to a renewal request filed by
8 the appointing entity in the appointee's birth month and every
9 24 months thereafter. A renewal request must be filed with
10 the department along with payment of the renewal appointment
11 fee and taxes as prescribed in s. 624.501.

12 (2) Each appointing person must file with the
13 department the lists, statement, and information as to each
14 bail bond agent ~~or runner~~ whose appointment is being renewed,
15 accompanied by payment of the applicable renewal fees and
16 taxes as prescribed in s. 624.501, by a date established by
17 the department following the month during which the
18 appointment will expire.

19 (3) An appointment may be renewed by the department
20 without penalty if the information required under subsection
21 (2) is received by the department on or prior to the date
22 established by the department for renewal, and such
23 appointment is effective on the day the appointment was
24 scheduled to expire.

25 (4) If the information required under subsection (2)
26 is received by the department after the date established by
27 the department for renewal, the appointment may be renewed by
28 the department if an additional appointment, continuation, and
29 reinstatement fee accompanies the application as required
30 under s. 624.501.

31

1 Section 14. Section 648.384, Florida Statutes, is
2 amended to read:

3 648.384 Effect of expiration of appointment; bail bond
4 agents ~~and runners~~.--

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

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

15 Section 15. Paragraph (a) of subsection (2) of section
16 648.385, Florida Statutes, is amended to read:

17 648.385 Continuing education required; application;
18 exceptions; requirements; penalties.--

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

27 Section 16. Paragraph (a) of subsection (1) and
28 paragraph (b) of subsection (4) of section 648.386, Florida
29 Statutes, are amended to read:

30 648.386 Qualifications for prelicensing and continuing
31 education schools and instructors.--

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

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

12 2. Offer a department-approved correspondence course
13 pursuant to department rules.

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

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

18 1. During the past 15 ~~10~~ years, the person must have
19 had at least 10 ~~5~~ years' experience as a manager or officer of
20 a managing general agent in this state as prescribed in s.
21 648.388;

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

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

30 Section 17. Section 648.387, Florida Statutes, is
31 created to read:

1 648.387 Primary bail bond agents; duties.--

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

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

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

27 (4) An owner, operator, or primary agent may not
28 employ, contract with, or use the services of any person in a
29 bail bond agency who has been charged with, found guilty of,
30 or pled guilty or nolo contendere to a felony or a crime
31 punishable by imprisonment of 1 year or more under the law of

1 any jurisdiction, without regard to whether judgment was
2 entered or withheld by the court.

3 (5) A bail bond agency location may not conduct surety
4 business unless a primary bail bond agent is designated at all
5 times. The failure to designate a primary agent on a form
6 prescribed by the department, within 10 working days after an
7 agency's inception or a change of primary agent, is a
8 violation of this chapter, punishable as provided in s.
9 648.45.

10 Section 18. Section 648.388, Florida Statutes, is
11 amended to read:

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

23 Section 19. Section 648.39, Florida Statutes, is
24 amended to read:

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

28 (1) An insurer who terminates the appointment of a
29 managing general agent, bail bond agent, or temporary bail
30 bond agent,~~or runner~~ shall, within 10 days after such
31 termination, file written notice thereof with the department

1 together with a statement that it has given or mailed notice
2 to the terminated agent ~~managing general agent, bail bond~~
3 ~~agent, temporary bail bond agent, or runner~~. Such notice filed
4 with the department must state the reasons, if any, for such
5 termination. Information so furnished the department is
6 confidential and exempt from the provisions of s. 119.07(1).

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

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

19 Section 20. Section 648.41, Florida Statutes, is
20 amended to read:

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

31

1 Section 21. Section 648.44, Florida Statutes, is
2 amended to read:
3 648.44 Prohibitions; penalty.--
4 (1) A bail bond agent or, temporary bail bond agent,
5 ~~or runner~~ may not:
6 (a) Suggest or advise the employment of, or name for
7 employment, any particular attorney to represent his or her
8 principal.
9 (b) Directly or indirectly solicit business in or on
10 the property or grounds of a jail, prison, or other place
11 where prisoners are confined or in or on the property or
12 grounds of any court. The term "solicitation" includes the
13 distribution of business cards, print advertising, or other
14 written or oral information directed to prisoners or potential
15 indemnitors, unless a request is initiated by the prisoner or
16 a potential indemnitor. Permissible print advertising in the
17 jail is strictly limited to a listing in a telephone directory
18 and the posting of the bail bond agent's or agency's name,
19 address, and telephone number in a designated location within
20 the jail.
21 (c) Initiate in-person or telephone solicitation after
22 9:00 p.m. or before 8:00 a.m., in the case of domestic
23 violence cases, at the residence of the detainee or the
24 detainee's family. Any solicitation not prohibited by this
25 chapter must comply with the telephone solicitation
26 requirements in ss. 501.059(2) and (4), 501.613, and
27 501.616(6).
28 (d)~~(c)~~ Wear or display any identification other than
29 the department issued or approved license or approved
30 department identification, which includes a citation of the
31 licensee's arrest powers, in or on the property or grounds of

1 a jail, prison, or other place where prisoners are confined or
2 in or on the property or grounds of any court.

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

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

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

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

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

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

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)(g), paragraph (1)(j)(1)(i), or paragraph (1)(n)
19 ~~(1)(m)~~, or subsection (2) commits a felony of the third
20 degree, punishable as provided in s. 775.082, s. 775.083, or
21 s. 775.084.

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

29 Section 22. Section 648.441, Florida Statutes, is
30 amended to read:

31

1 648.441 Furnishing supplies to unlicensed bail bond
2 agent prohibited; civil liability and penalty.--

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

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

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

1 Section 23. Section 648.442, Florida Statutes, is
2 amended to read:

3 648.442 Collateral security.--

4 (1) Collateral security or other indemnity accepted by
5 a bail bond agent, except a promissory note or an indemnity
6 agreement, shall be returned upon final termination of
7 liability on the bond. Such collateral security or other
8 indemnity required by the bail bond agent must be reasonable
9 in relation to the amount of the bond. Collateral security may
10 not be used by the bail bond agent for personal benefit or
11 gain and must be returned in the same condition as received.
12 A bail bond agent may accept collateral security in excess of
13 \$50,000 cash per bond, provided any amount over \$50,000 cash
14 is payable to the insurer in the form of a cashier's check,
15 United States postal money order, certificates of deposit, or
16 wire transfer and is remitted to and held by the insurer. A
17 copy of IRS Form 8300 must be retained as part of the
18 defendant's file if it is otherwise required. A quit-claim
19 deed for property may not be taken as collateral.Other
20 acceptable forms of security or indemnity may consist of the
21 following:

22 (a) A promissory note;

23 (b) An indemnity agreement;

24 (c) A real property mortgage in the name of the
25 insurer;

26 (d) Any Uniform Commercial Code filing; or

27 (e) Any other type of security approved by the
28 department. The department may approve other security only if,
29 after considering the liquidity and other characteristics of
30 the security, it determines that the security is of a type
31 which increases the probability that the defendant will in

1 fact appear in court or increases the probability that the
2 defendant will be subsequently apprehended by the bail bond
3 agent.

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

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

31

1 (4) When the obligation of the surety on the bond or
2 bonds has been released in writing by the court, the
3 collateral shall be returned to the rightful owner named in
4 the collateral receipt unless another disposition is provided
5 for by legal assignment of the right to receive the collateral
6 to another person.

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

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

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

29 (8) Prior to the appointment of a bail bond agent who
30 is currently or was previously appointed by another insurer,
31 the bail bond agent must file with the department a sworn and

1 notarized affidavit, on a form prescribed by the department,
2 stating that:

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

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

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

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

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

31

1 Section 24. Section 648.4425, Florida Statutes, is
2 amended to read:

3 648.4425 Notice.--

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

8 (a) A statement noting with particularity the
9 restrictions, if any, placed on the principal as a condition
10 of the bond;

11 (b) A statement of the bail bond agent's powers
12 relating to the cancellation of the bond and recommitment of
13 the principal; and

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

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

23 ~~(3)(2)~~ The department shall prescribe forms to
24 administer this section.

25 Section 25. Subsection (2) of section 648.45, Florida
26 Statutes, is amended to read:

27 648.45 Actions against a licensee; suspension or
28 revocation of eligibility to hold a license.--

29 (2) The department shall deny, suspend, revoke, or
30 refuse to renew any license or appointment issued under this
31 chapter or the insurance code, and it shall suspend or revoke

1 the eligibility of any person to hold a license or appointment
2 under this chapter or the insurance code, for any violation of
3 the laws of this state relating to bail or any violation of
4 the insurance code or if the person ~~for any of the following~~
5 ~~causes:~~

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

8 (b) Has made a material misstatement,
9 misrepresentation, or fraud in obtaining a license or
10 appointment, or in attempting to obtain a license or
11 appointment.

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

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

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

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

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

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

29 (i) Is guilty of rebating or offering to rebate, or
30 unlawfully dividing or offering to divide, any commission, in
31

1 the case of a limited surety agent, or premiums, in the case
2 of a professional bail bond agent.

3 (j) Has willfully failed ~~Willful failure~~ to comply
4 with or willfully violated ~~willful violation of~~ any proper
5 order or rule of the department or willfully violated ~~willful~~
6 ~~violation of~~ any provision of this chapter or the insurance
7 code.

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

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

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

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

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

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

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

27 4. Has induced another person to impede or obstruct
28 such filing.

29

30 Such reports or records shall include only those that are
31 signed in the capacity of a licensed agent.

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

5 Section 26. Subsection (1) of section 648.52, Florida
6 Statutes, is amended to read:

7 648.52 Administrative fine.--

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

23 Section 27. Section 648.525, Florida Statutes, is
24 created to read:

25 648.525 Civil assessment.--

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

29 (2) The burden of proof in such proceedings is by a
30 preponderance of the evidence. Upon a finding that a licensee
31 has failed to properly comply, an assessment of \$5,000 shall

1 be ordered for each act of improper solicitation which
2 assessment shall be payable within 30 days after the date of
3 the final order.

4 (3) The civil assessment is a civil remedy for conduct
5 that harms the consuming public and that is considered an
6 unfair method of competition, and is not a penalty or
7 administrative fine. Remedies under this section are in
8 addition to any other remedies available at law.

9 Section 28. Section 648.571, Florida Statutes, is
10 amended to read:

11 648.571 Failure to return collateral; penalty.--

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

24 (2) Upon demand, following the written request for
25 discharge and upon diligent inquiry by the surety or the
26 surety's agent of the surety to determine whether that the
27 bond has been discharged, the failure of the court to provide
28 a written discharge to the surety or surety's the agent of the
29 surety pursuant to chapter 903 within 7 days automatically
30 cancels, shall cause the cancellation of the bond, by
31 operation of law and the collateral shall be returned to the

1 indemnitor within 21 days after ~~of~~ the written request for
2 discharge.

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

6 (b)1. The bail bond agent may charge the credit card
7 fee imposed in connection with the use of the credit card for
8 payment of collateral if the fee is clearly shown on the
9 collateral receipt and is acknowledged by the person tendering
10 the credit card.

11 2. The prevailing schedule of credit card fees must be
12 conspicuously posted in the lobby of the bail bond agency and
13 a copy must be provided to the person tendering the credit
14 card. ~~However,~~

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

20 1.(1) ~~If in the event~~ the collateral is of a value of
21 less than \$100, as provided in s. 775.082(4)(a).

22 2.(2) ~~If in the event~~ the collateral is of a value of
23 \$100 or more, as provided in s. 775.082(3)(d).

24 3.(3) ~~If in the event~~ the collateral is of a value of
25 \$1,500 or more, as provided in s. 775.082(3)(c).

26 4. ~~If in the event~~ the collateral is of a value of
27 \$10,000 or more, as provided in s. 775.082(3)(b).

28 (4) In addition to the criminal penalties and any
29 other penalties provided in this chapter, the department shall
30 impose against any person violating this section an
31

1 administrative fine of five times the dollar amount of the
2 collateral.

3 Section 29. Subsection (21) of section 624.501,
4 Florida Statutes, is amended to read:

5 624.501 Filing, license, appointment, and
6 miscellaneous fees.--The department shall collect in advance,
7 and persons so served shall pay to it in advance, fees,
8 licenses, and miscellaneous charges as follows:

9 (21) Limited surety agent or~~professional~~ bail bond
10 agent, ~~or runner~~ as defined in s. 648.25, each agent and each
11 insurer represented. Original appointment and biennial renewal
12 or continuation thereof, each agent or insurer, whichever is
13 applicable:

14	Appointment fee.....	\$44.00
15	State tax.....	24.00
16	County tax.....	12.00
17	Total.....	\$80.00

18 Section 30. Paragraph (1) of subsection (1) of section
19 624.523, Florida Statutes, is amended to read:

20 624.523 Insurance Commissioner's Regulatory Trust
21 Fund.--

22 (1) There is created in the State Treasury a trust
23 fund designated "Insurance Commissioner's Regulatory Trust
24 Fund" to which shall be credited all payments received on
25 account of the following items:

26 (1) All sums received under s. 648.27 ~~s. 648.27(6)~~
27 (bail bond agent, limited surety agent ~~or runner~~, continuation
28 fee), the "appointment fee" portion of any license or permit
29 provided for under s. 648.31, and the application fees
30 provided for under ss. 648.34(3) and 648.37(3).

31

1 Section 31. Section 648.37, Florida Statutes, is
2 repealed.

3 Section 32. If any provision of this act or its
4 application to any person or circumstance is held invalid, the
5 invalidity does not affect other provisions or applications of
6 the act which can be given effect without the invalid
7 provision or application, and to this end the provisions of
8 this act are declared severable.

9 Section 33. This act shall take effect July 1, 2002.

10
11 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
12 COMMITTEE SUBSTITUTE FOR
13 Senate Bill 1916

14 Re-classifies the criminal penalties to provide that the
15 bill's newly prohibited acts relating to unlawful solicitation
16 are first-degree misdemeanors and to maintain the current
17 criminal penalties for currently prohibited acts.

18 Clarifies that the temporary permit that the Department of
19 Insurance may issue in the event of the death or incapacity of
20 the owner of a bail bond agency authorizes the permit holder
21 to manage the affairs of the bail bond agency.

22 Specifies that the additional penalty equal to five times the
23 amount of the collateral that the department may impose
24 against a bail bond agent relates only to violations of the
25 section related to failure to return collateral.

26 Other technical and conforming changes.
27
28
29
30
31