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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
03/12/2013	.	
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The Committee on Ethics and Elections (Latvala) recommended the following:

1           **Senate** ~~Substitute for Amendment (130626)~~ **(with title**  
2 **amendment)**

3  
4           Delete lines 425 - 601

5 and insert:

6           Section 8. Effective July 1, 2014, paragraph (b) of  
7 subsection (1) of section 648.44, Florida Statutes, is amended  
8 to read:

9           648.44 Prohibitions; penalty.—

10           (1) A bail bond agent or temporary bail bond agent may not:

11           (b) Directly or indirectly solicit business in or on the  
12 property or grounds of a jail, prison, or other place where



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13 prisoners are confined or in or on the property or grounds of  
14 any court. The term "solicitation" includes the distribution of  
15 business cards, print advertising, or other written or oral  
16 information directed to prisoners or potential indemnitors,  
17 unless a request is initiated by the prisoner or a potential  
18 indemnitor. Permissible print advertising in the jail is  
19 strictly limited to a listing in a telephone directory and the  
20 posting of the bail bond agent's or agency's name, address, e-  
21 mail address, and telephone number in a designated location  
22 within the jail.

23 Section 9. Effective July 1, 2014, section 903.012, Florida  
24 Statutes, is created to read:

25 903.012 Posting and transmittal of bonds.—Bonds may be  
26 posted in person or electronically at the election of the  
27 receiving agency. Bonds may be transmitted electronically  
28 between the sheriff's office and the office of the clerk of  
29 court.

30 Section 10. Effective July 1, 2014, section 903.101,  
31 Florida Statutes, is amended to read:

32 903.101 Sureties; licensed persons; to have equal access.—  
33 Subject to rules adopted by the Department of Financial Services  
34 and by the Financial Services Commission, every surety who meets  
35 the requirements of ss. 903.05, 903.06, 903.08, and 903.09, and  
36 every person who is currently licensed by the Department of  
37 Financial Services and registered as required by s. 648.42 shall  
38 have equal access to the jails of this state for the purpose of  
39 making bonds either in person or electronically.

40 Section 11. Effective July 1, 2014, subsection (1) of  
41 section 903.14, Florida Statutes, is amended to read:



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42 903.14 Contracts to indemnify sureties.-

43 (1) A surety shall file with the bond an affidavit stating  
44 the amount and source of any security or consideration which the  
45 surety or anyone for his or her use has received or been  
46 promised for the bond. The affidavit shall be filed in the same  
47 manner as the bond.

48 Section 12. Effective July 1, 2014, paragraph (b) of  
49 subsection (1), paragraph (a) of subsection (2), and subsection  
50 (3) of section 903.26, Florida Statutes, are amended to read:

51 903.26 Forfeiture of the bond; when and how directed;  
52 discharge; how and when made; effect of payment.-

53 (1) A bail bond shall not be forfeited unless:

54 (b) The clerk of court gave the surety at least 72 hours'  
55 notice, exclusive of Saturdays, Sundays, and holidays, before  
56 the time of the required appearance of the defendant. Notice  
57 shall not be necessary if the time for appearance is within 72  
58 hours from the time of arrest, or if the time is stated on the  
59 bond. Such notice may be mailed or electronically transmitted.

60 (2) (a) If there is a breach of the bond, the court shall  
61 declare the bond and any bonds or money deposited as bail  
62 forfeited. The clerk of the court shall mail or electronically  
63 transmit a notice to the surety agent and surety company ~~in~~  
64 ~~writing~~ within 5 days after ~~of~~ the forfeiture. A certificate  
65 signed by the clerk of the court or the clerk's designee,  
66 certifying that the notice required herein was mailed or  
67 electronically transmitted on a specified date and accompanied  
68 by a copy of the required notice, shall constitute sufficient  
69 proof that such mailing or electronic transmission was properly  
70 accomplished as indicated therein. If such mailing or electronic



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71 transmission was properly accomplished as evidenced by such  
72 certificate, the failure of the surety agent, of a company, or  
73 of a defendant to receive such ~~mail~~ notice shall not constitute  
74 a defense to such forfeiture and shall not be grounds for  
75 discharge, remission, reduction, set aside, or continuance of  
76 such forfeiture. The forfeiture shall be paid within 60 days of  
77 the date the notice was mailed or electronically transmitted.

78 (3) Sixty days after the forfeiture notice has been mailed  
79 or electronically transmitted:

80 (a) State and county officials having custody of forfeited  
81 money shall deposit the money in the fine and forfeiture fund  
82 established pursuant to s. 142.01.~~†~~

83 (b) Municipal officials having custody of forfeited money  
84 shall deposit the money in a designated municipal fund.~~†~~

85 (c) Officials having custody of bonds as authorized by s.  
86 903.16 shall transmit the bonds to the clerk of the circuit  
87 court who shall sell them at market value and disburse the  
88 proceeds as provided in paragraphs (a) and (b).

89 Section 13. Effective July 1, 2014, subsections (1), (2),  
90 and (6) of section 903.27, Florida Statutes, are amended to  
91 read:

92 903.27 Forfeiture to judgment.—

93 (1) If the forfeiture is not paid or discharged by order of  
94 a court of competent jurisdiction within 60 days and the bond is  
95 secured other than by money and bonds authorized in s. 903.16,  
96 the clerk of the circuit court for the county where the order  
97 was made shall enter a judgment against the surety for the  
98 amount of the penalty and issue execution. However, in any case  
99 in which the bond forfeiture has been discharged by the court of



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100 competent jurisdiction conditioned upon the payment by the  
101 surety of certain costs or fees as allowed by statute, the  
102 amount for which judgment may be entered may not exceed the  
103 amount of the unpaid fees or costs upon which the discharge had  
104 been conditioned. Judgment for the full amount of the forfeiture  
105 shall not be entered if payment of a lesser amount will satisfy  
106 the conditions to discharge the forfeiture. Within 10 days, the  
107 clerk shall furnish the Department of Financial Services and the  
108 Office of Insurance Regulation of the Financial Services  
109 Commission with a certified copy of the judgment docket and  
110 shall furnish the surety company at its home office a copy of  
111 the judgment, which shall include the power of attorney number  
112 of the bond and the name of the executing agent. If the judgment  
113 is not paid within 35 days, the clerk shall furnish the  
114 Department of Financial Services, the Office of Insurance  
115 Regulation, and the sheriff of the county in which the bond was  
116 executed, or the official responsible for operation of the  
117 county jail, if other than the sheriff, two copies of the  
118 judgment and a certificate stating that the judgment remains  
119 unsatisfied. When and if the judgment is properly paid or an  
120 order to vacate the judgment has been entered by a court of  
121 competent jurisdiction, the clerk shall immediately notify the  
122 sheriff, or the official responsible for the operation of the  
123 county jail, if other than the sheriff, and the Department of  
124 Financial Services and the Office of Insurance Regulation, if  
125 the department and office had been previously notified of  
126 nonpayment, of such payment or order to vacate the judgment. The  
127 clerk may furnish documents or give notice as required in this  
128 subsection by mail or electronic means. The clerk shall also



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129 immediately prepare and record in the public records a  
130 satisfaction of the judgment or record the order to vacate  
131 judgment. If the defendant is returned to the county of  
132 jurisdiction of the court, whenever a motion to set aside the  
133 judgment is filed, the operation of this section is tolled until  
134 the court makes a disposition of the motion.

135 (2) A certificate signed by the clerk of the court or her  
136 or his designee, certifying that the notice required in  
137 subsection (1) was mailed or electronically delivered on a  
138 specified date, and accompanied by a copy of the required notice  
139 constitutes sufficient proof that such mailing or electronic  
140 delivery was properly accomplished as indicated therein. If such  
141 mailing or electronic delivery was properly accomplished as  
142 evidenced by such certificate, the failure of a company to  
143 receive a copy of the judgment as prescribed in subsection (1)  
144 does not constitute a defense to the forfeiture and is not a  
145 ground for the discharge, remission, reduction, set-aside, or  
146 continuance of such forfeiture.

147 ~~(6) The failure of a state attorney to file, or of the~~  
148 ~~clerk of the circuit court to make, a certified copy of the~~  
149 ~~order of forfeiture as required by law applicable prior to July~~  
150 ~~1, 1982, shall not invalidate any judgment entered by the clerk~~  
151 ~~prior to June 12, 1981.~~

152 Section 14. Effective July 1, 2014, subsection (1) of  
153 section 903.31, Florida Statutes, is amended to read:

154 903.31 Canceling the bond.—

155 (1) Within 10 business days after the conditions of a bond  
156 have been satisfied or the forfeiture discharged or remitted,  
157 the court shall order the bond canceled and, if the surety has



158 attached a certificate of cancellation to the original bond, the  
159 clerk of the court shall mail or electronically furnish an  
160 executed certificate of cancellation to the surety without cost.  
161 An adjudication of guilt or innocence, an acquittal, or a  
162 withholding of an adjudication of guilt shall satisfy the  
163 conditions of the bond. The original appearance bond shall  
164 expire 36 months after such bond has been posted for the release  
165 of the defendant from custody. This subsection does not apply to  
166 cases in which a bond has been declared forfeited.

167 Section 15. Effective July 1, 2014, subsection (2) of  
168 section 903.36, Florida Statutes, is amended to read:

169 903.36 Guaranteed arrest bond certificates as cash bail.-

170 (2) The execution of a bail bond by a licensed general  
171 lines agent of a surety insurer for the automobile club or  
172 association member identified in the guaranteed traffic arrest  
173 bond certificate, as provided in s. 627.758(4), shall be  
174 accepted as bail in an amount not to exceed \$5,000 for the  
175 appearance of the person named in the certificate in any court  
176 to answer for the violation of a provision of chapter 316 or a  
177 similar traffic law or ordinance, except driving under the  
178 influence of alcoholic beverages, chemical substances, or  
179 controlled substances, as prohibited by s. 316.193. Presentation  
180 of the guaranteed traffic arrest bond certificate and a power of  
181 attorney from the surety insurer for its licensed general lines  
182 agents is authorization for such agent to execute the bail bond.  
183 Presentation may be made in person or by electronic means.

184 Section 16. Except as otherwise expressly provided, this  
185 act shall take effect October 1, 2013.

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187 ===== T I T L E A M E N D M E N T =====

188 And the title is amended as follows:

189       Delete lines 53 - 54

190 and insert:

191       in person or electronically; providing effective  
192       dates.