

1 A bill to be entitled

2 An act relating to bail bonds; amending s. 648.25,
3 F.S.; revising and providing definitions; amending s.
4 648.30, F.S.; prohibiting a person from transmitting
5 or posting an electronic bond with attached power of
6 attorney unless he or she is duly qualified, licensed,
7 and appointed as a bail bond agent; providing criminal
8 penalties; amending s. 648.42, F.S.; authorizing a
9 duly qualified, licensed, appointed, and registered
10 bail bond agent to transmit electronic bonds within
11 the judicial circuit in which the bail bond agency is
12 located under certain circumstances; amending s.
13 648.43, F.S.; requiring the Department of Financial
14 Services to approve a sample form for an electronic
15 power of attorney to be attached to an electronic
16 bond; amending s. 648.44, F.S.; prohibiting a bail
17 bond agent or temporary bail bond agent from
18 transmitting or posting an electronic bond with
19 attached power of attorney under certain
20 circumstances; prohibiting a bail bond agent from
21 authorizing another person to countersign his or her
22 name to a bond or power of attorney; prohibiting a
23 bail bond agent from facilitating or allowing an
24 unlicensed person or a person without proper
25 appointment to transmit or post electronic bonds;
26 providing a criminal penalty; amending s. 648.441,

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27 F.S.; prohibiting an insurer or managing general agent
28 from furnishing an unlicensed individual or entity a
29 form necessary for transmitting or posting electronic
30 bonds; providing criminal penalties; amending s.
31 903.09, F.S.; revising requirements for a bail bond
32 agent to justify his or her suretyship to include
33 electronic bonds; amending s. 903.101, F.S.;
34 authorizing a qualified, licensed, appointed, and
35 registered bail bond agent to transmit or post
36 electronic bonds within the judicial circuit in which
37 the bail bond agency is located under certain
38 circumstances; amending s. 903.33, F.S.; providing
39 that electronic bonds are considered original
40 documents; amending s. 903.34, F.S.; providing
41 requirements for a bond, posted in person or initiated
42 electronically, to be approved by a committing trial
43 court judge or the sheriff; providing an effective
44 date.

45
46 Be It Enacted by the Legislature of the State of Florida:

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48 Section 1. Section 648.25, Florida Statutes, is amended to
49 read:

50 648.25 Definitions.—As used in this chapter, the term:

51 (1) "Bail bond agency" means:

52 (a) The building where a licensee maintains an office and

53 where all records required by ss. 648.34 and 648.36 are
 54 maintained; ~~or~~

55 (b) An entity that:

56 1. Charges a fee or premium to release an accused
 57 defendant or detainee from jail; ~~or~~

58 2. Engages in or employs others to engage in any activity
 59 that may be performed only by a licensed and appointed bail bond
 60 agent; or

61 (c) An entity that is physically located in a judicial
 62 circuit and that transmits electronic bonds. Such bonds may only
 63 be transmitted to a jail that is located in the same judicial
 64 circuit as the agency.

65 (2) "Bail bond agent" means a limited surety agent or a
 66 professional bail bond agent ~~as hereafter defined~~.

67 (3) "Delivery" means:

68 (a) Hand delivering a bond with attached power of
 69 attorney; or

70 (b) Electronic transmission of a bond with attached power
 71 of attorney.

72 (4) "Electronic bond" means a bond that is:

73 (a) Transmitted or posted electronically with attached
 74 power of attorney by delivery to a jail or place where a
 75 defendant is being held using a delivery method other than hand
 76 delivering the executed power of attorney and completed bond
 77 form to the facility.

78 (b) Originated through the surety company guaranteeing its

79 undertaking which is admitted to and authorized by this state
 80 and which possess a certificate of authority to underwrite bail
 81 bonds in this state.

82 (c) Filed using a computer program to transmit information
 83 electronically to another party.

84 (5)~~(3)~~ "Managing general agent" means an ~~any~~ individual,
 85 partnership, association, or corporation appointed or employed
 86 by an insurer to supervise or manage the bail bond business
 87 written in this state by limited surety agents appointed by the
 88 insurer.

89 (6)~~(4)~~ "Insurer" means a ~~any~~ domestic, foreign, or alien
 90 surety company which has been authorized to transact surety
 91 business in this state.

92 (7)~~(5)~~ "Limited surety agent" means an ~~any~~ individual
 93 appointed by an insurer by power of attorney to execute or
 94 countersign bail bonds in connection with judicial proceedings
 95 who receives or is promised money or other things of value
 96 therefor.

97 (8)~~(6)~~ "Primary bail bond agent" means a licensed bail
 98 bond agent who is responsible for the overall operation and
 99 management of a bail bond agency location and whose
 100 responsibilities include hiring and supervising all individuals
 101 within that location. A bail bond agent may be designated as
 102 primary bail bond agent for only one bail bond agency location.

103 (9)~~(7)~~ "Professional bail bond agent" means a ~~any~~ person
 104 who pledges United States currency, United States postal money

105 orders, or cashier's checks as security for a bail bond in
106 connection with a judicial proceeding and receives or is
107 promised therefor money or other things of value.

108 (10) "Surety" means a property and casualty insurance
109 company holding a certificate of authority to transact surety
110 business in this state.

111 (11)~~(8)~~ "Temporary bail bond agent" or "temporary
112 licensee" means a person employed by a bail bond agent or
113 agency, insurer, or managing general agent, and such licensee
114 has the same authority as a licensed bail bond agent, including
115 presenting defendants in court; apprehending, arresting, and
116 surrendering defendants to the proper authorities, while
117 accompanied by a supervising bail bond agent or an agent from
118 the same bail bond agency; and keeping defendants under
119 necessary surveillance. However, a temporary bail bond agent or
120 temporary licensee may not execute or sign bonds, handle
121 collateral receipts, or deliver bonds to appropriate
122 authorities. A temporary bail bond agent or temporary licensee
123 may not operate an agency or branch agency separate from the
124 location of the supervising bail bond agent, managing general
125 agent, or insurer by whom the temporary bail bond agent or
126 licensee is employed. This does not affect the right of a bail
127 bond agent or insurer to hire counsel or to obtain the
128 assistance of law enforcement officers.

129 Section 2. Section 648.30, Florida Statutes, is amended to
130 read:

131 648.30 Licensure and appointment required.-

132 (1) A person may not:

133 (a) Act in the capacity of a bail bond agent or temporary
 134 bail bond agent or perform any of the functions, duties, or
 135 powers prescribed for bail bond agents or temporary bail bond
 136 agents under this chapter unless that person is qualified,
 137 licensed, and appointed as provided in this chapter.

138 (b) ~~(2)~~ A person may not Represent himself or herself to be
 139 a bail enforcement agent, bounty hunter, or other similar title
 140 in this state.

141 (c) ~~(3)~~ A person, other than a certified law enforcement
 142 officer, may not Apprehend, detain, or arrest a principal on a
 143 bond, wherever issued, unless that person is qualified,
 144 licensed, and appointed as provided in this chapter; or ~~or~~ licensed
 145 as a bail bond agent or bail bond enforcement agent; or ~~or~~ holds
 146 an equivalent license by the state where the bond was written.

147 (d) Transmit or post an electronic bond with attached
 148 power of attorney unless he or she is duly qualified, licensed,
 149 and appointed as a bail bond agent.

150 (2) ~~(4)~~ A ~~Any~~ person who violates this section commits a
 151 felony of the third degree, punishable as provided in s.
 152 775.082, s. 775.083, or s. 775.084.

153 Section 3. Section 648.42, Florida Statutes, is amended to
 154 read:

155 648.42 Registration of bail bond agents.-

156 (1) A bail bond agent may not become a surety on an

157 | undertaking unless he or she has registered in the office of the
 158 | sheriff and with the clerk of the circuit court in the county in
 159 | which the bail bond agent resides. The bail bond agent may
 160 | register in a like manner in any other county. A,~~and any~~ bail
 161 | bond agent shall file a certified copy of his or her appointment
 162 | by power of attorney from each insurer that ~~which~~ he or she
 163 | represents as a bail bond agent with each of such officers.
 164 | Registration and filing of a certified copy of renewed power of
 165 | attorney shall be performed by April 1 of each odd-numbered
 166 | year. The clerk of the circuit court and the sheriff may ~~shall~~
 167 | not permit the registration of a bail bond agent unless such
 168 | bail bond agent is currently licensed and appointed by the
 169 | department. ~~Nothing in~~ This section does not ~~shall~~ prevent the
 170 | registration of a temporary licensee at the jail for the
 171 | purposes of enabling the licensee to perform the duties under
 172 | such license described ~~as set forth~~ in this chapter.

173 | (2) A duly qualified, licensed, appointed, and registered
 174 | bail bond agent may transmit or post electronic bonds in the
 175 | judicial circuit in which the bail bond agency is located if the
 176 | sheriff agrees to accept such electronic bonds.

177 | Section 4. Subsection (1) of section 648.43, Florida
 178 | Statutes, is amended to read:

179 | 648.43 Power of attorney; to be approved by department;
 180 | filing of copies; notification of transfer bond.—

181 | (1) Every insurer engaged in the writing of bail bonds
 182 | through bail bond agents in this state shall submit and have

183 approved by the department ~~a~~ sample powers ~~power~~ of attorney,
 184 including an electronic power of attorney to be attached to an
 185 electronic bond, which will be the only forms ~~form~~ of powers
 186 ~~power~~ of attorney the insurer will issue to bail bond agents in
 187 this state.

188 Section 5. Paragraph (q) is added to subsection (1) of
 189 section 648.44, Florida Statutes, and subsection (3) and
 190 paragraph (a) of subsection (9) of that section are amended, to
 191 read:

192 648.44 Prohibitions; penalty.—

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

195 (q) Transmit or post an electronic bond with attached
 196 power of attorney unless he or she:

197 1. Is duly qualified, licensed, appointed, and registered
 198 as a bail bond agent as provided in this chapter.

199 2. Is registered in the county within the judicial
 200 circuit.

201 3. Has an agency physically located in the judicial
 202 circuit in which the bond is being transmitted.

203 (3) A bail bond agent may not:

204 (a) Sign or countersign in blank any bond or otherwise
 205 authorize another person to countersign his or her name to a
 206 bond; or, ~~give a power of attorney to, or otherwise authorize,~~
 207 ~~anyone to countersign his or her name to bonds unless the person~~
 208 ~~so authorized is a licensed and appointed bail bond agent~~

209 ~~directly employed by the bail bond agent giving such power of~~
 210 ~~attorney.~~

211 (b) Facilitate or allow an unlicensed person or a person
 212 without a proper appointment to transmit or post an electronic
 213 bond.

214 (9) (a) A ~~Any~~ person who violates a ~~any~~ provision
 215 ~~provisions~~ of paragraph (1) (e), paragraph (1) (f), paragraph
 216 (1) (g), paragraph (1) (j), ~~or~~ paragraph (1) (n), or paragraph
 217 (1) (q), or subsection (2) commits a felony of the third degree,
 218 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

219 Section 6. Section 648.441, Florida Statutes, is amended
 220 to read:

221 648.441 Furnishing supplies to unlicensed bail bond agent
 222 prohibited; civil liability and penalty.—

223 (1) An insurer, managing general agent, bail bond agent,
 224 or temporary bail bond agent appointed under this chapter may
 225 not furnish to any person any blank forms, applications,
 226 stationery, business card, or other supplies to be used in
 227 soliciting, negotiating, or effecting bail bonds until such
 228 person has received from the department a license to act as a
 229 bail bond agent and is appointed by the insurer. This section
 230 does not prohibit an unlicensed employee, under the direct
 231 supervision and control of a licensed and appointed bail bond
 232 agent, from possessing or executing in the bail bond agency, any
 233 forms, except for powers of attorney, bond forms, and collateral
 234 receipts, while acting within the scope of his or her

235 employment.

236 (2) An insurer or managing general agent may not furnish
 237 to an unlicensed individual or entity a form necessary for the
 238 electronic transmittal or posting of electronic bonds.

239 (3)-(2) An ~~Any~~ insurer, licensee, or appointee who
 240 furnishes to any bail bond agent or other person not named or
 241 appointed by the insurer represented any of the supplies
 242 specified ~~mentioned~~ in subsection (1) and accepts any bail bond
 243 business from or writes any bail bond business for such bail
 244 bond agent, person, or agency is subject to civil liability to
 245 any insured of such insurer or indemnitor to the same extent and
 246 in the same manner as if such bail bond agent or other person
 247 had been appointed or authorized by the insurer, managing
 248 general agent, or bail bond agent to act in its or his or her
 249 behalf by the department.

250 (4)-(3) A ~~Any~~ person who violates this section commits a
 251 misdemeanor of the first degree, punishable as provided in s.
 252 775.082 or s. 775.083, except that the violator is subject to a
 253 fine of up to ~~not to exceed~~ \$5,000 in addition to, or in lieu
 254 of, any term of imprisonment.

255 Section 7. Section 903.09, Florida Statutes, is amended to
 256 read:

257 903.09 Justification of sureties.—

258 (1) A surety shall execute an affidavit stating that she
 259 or he possesses the qualifications and net worth required to
 260 become a surety. The affidavit shall describe the surety's

261 property and any encumbrances and shall state the number and
 262 amount of any bonds entered into by the surety at any court that
 263 remain undischarged.

264 (2) A bail bond agent, as defined in s. 648.25(2), shall
 265 justify her or his suretyship by any of the following:

266 (a) Attaching the original ~~attaching a copy of the power~~
 267 ~~of attorney issued by the company~~ bearing an original signature
 268 of a duly qualified, licensed, appointed, and registered bail
 269 bond agent to the bond ~~to the bond or by attaching to the bond~~
 270 ~~United States currency, a United States postal money order, or a~~
 271 ~~cashier's check in the amount of the bond; but the United States~~
 272 ~~currency, United States postal money order, or cashier's check~~
 273 ~~cannot be used to secure more than one bond. Nothing herein~~
 274 ~~shall prohibit two or more qualified sureties from each posting~~
 275 ~~any portion of a bond amount, and being liable for only that~~
 276 ~~amount, so long as the total posted by all cosureties is equal~~
 277 ~~to the amount of bond required.~~

278 (b) Transmitting or posting electronic bonds from the
 279 surety company of the executed power of attorney, if allowed by
 280 the sheriff.

281 (c) Attaching to the bond United States currency, a United
 282 States postal money order, or a cashier's check in the amount of
 283 the bond; however, the United States currency, United States
 284 postal money order, or cashier's check may not be used to secure
 285 more than one bond.

286 (3) This section does not prohibit two or more qualified

287 sureties from each posting any portion of a bond amount and
 288 being liable for only that amount, so long as the total posted
 289 by all cosureties is equal to the amount of bond required.

290 Section 8. Section 903.101, Florida Statutes, is amended
 291 to read:

292 903.101 Sureties; licensed persons; to have equal access.—
 293 Subject to rules adopted by the Department of Financial Services
 294 and by the Financial Services Commission, each ~~every~~ surety who
 295 meets the requirements of ss. 903.05, 903.06, 903.08, and
 296 903.09, and each ~~every~~ person who is currently licensed by the
 297 Department of Financial Services and registered as required by
 298 s. 648.42 shall have equal access to the jails of this state for
 299 the purpose of making bonds. A duly qualified, licensed,
 300 appointed, and registered bail bond agent may transmit or post
 301 electronic bonds in the judicial circuit in which the bail bond
 302 agency is located if the sheriff agrees to accept such
 303 electronic bonds.

304 Section 9. Section 903.33, Florida Statutes, is amended to
 305 read:

306 903.33 Bail not discharged for certain defects.—The
 307 liability of a surety is ~~shall~~ not be affected by his or her
 308 lack of any qualifications required by law, any agreement not
 309 expressed in the undertakings, or the failure of the defendant
 310 to join in the bond. An electronic bond is considered an
 311 original document and may not be discharged on the ground that
 312 it is not such a document.

313 Section 10. Section 903.34, Florida Statutes, is amended
 314 to read:

315 903.34 Who may admit to bail.—

316 (1) In criminal actions instituted or pending in a ~~any~~
 317 state court, bonds given by defendants before trial until appeal
 318 shall be approved by a committing trial court judge or the
 319 sheriff. The bond must:

320 (a) Be posted in person by a duly qualified, licensed,
 321 appointed, and registered bail bond agent pursuant to s. 648.42
 322 by attaching to the bond a power of attorney in a form approved
 323 by the Department of Financial Services and issued by a
 324 qualified surety insurance company for whom a certificate of
 325 authority has been issued by the Office of Insurance Regulation;
 326 and

327 (b) Be transmitted and posted as an electronic bond as
 328 defined in s. 648.25 by a duly qualified, licensed, appointed,
 329 and registered bail bond agent pursuant to s. 648.42. The
 330 transmittal or posting of an electronic bond must originate
 331 through the surety company guaranteeing its undertaking. The
 332 surety company must electronically transmit the bond and power
 333 of attorney on forms approved by the Department of Financial
 334 Services for the qualified surety insurance company for whom a
 335 certificate of authority has been issued by the Office of
 336 Insurance Regulation; and

337 1. The sheriff must agree to accept the transmittal and
 338 posting of an electronic bond and attached power of attorney.

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339 2. The transmittal and posting of an electronic bond and
340 attached power of attorney must be originated by a duly
341 qualified, licensed, appointed, and registered bail bond agent
342 whose office and agency is physically located in the county
343 where the bond is to be posted.

344 (2) Appeal bonds shall be approved as provided in s.
345 924.15.

346 Section 11. This act shall take effect July 1, 2014.