

By Senator Grimsley

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1                   A bill to be entitled  
2       An act relating to bail bonds; amending s. 648.285,  
3       F.S.; revising the requirements for a person to own,  
4       control, or otherwise have a pecuniary interest in a  
5       bail bond agency; amending s. 648.34, F.S.; revising  
6       the eligibility requirements for bail bond agent  
7       applicants; amending s. 648.387, F.S.; providing  
8       requirements for primary bail bond agents; amending s.  
9       648.44, F.S.; adding prohibitions to the way a bail  
10      bond agent or temporary bail bond agent solicits  
11      business; requiring a bail bond agent or agency  
12      Internet solicitation to include a physical address;  
13      requiring a fine and temporary license suspension for  
14      specified violations; requiring a fine and revocation  
15      of certain licenses for a second violation; providing  
16      requirements for relicensing; amending s. 903.045,  
17      F.S.; revising legislative intent; amending s. 903.22,  
18      F.S.; providing circumstances under which, while on  
19      bond with the surety, a breach of the bail bond  
20      conditions occurs; amending s. 903.26, F.S.; revising  
21      the circumstances under which a court must discharge a  
22      bond forfeiture; amending s. 903.28, F.S.; deleting a  
23      condition for the remission of bond forfeiture;  
24      reenacting s. 648.285(2), F.S., to incorporate the  
25      amendment made to s. 648.387, F.S., in a reference  
26      thereto; reenacting s. 648.45(4), F.S., to incorporate  
27      the amendment made to s. 648.44, F.S., in a reference  
28      thereto; reenacting s. 903.36(4), F.S., to incorporate  
29      the amendment made to s. 903.045, F.S., in a reference

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30 thereto; providing an effective date.

31  
32 Be It Enacted by the Legislature of the State of Florida:

33  
34 Section 1. Subsection (1) of section 648.285, Florida  
35 Statutes, is amended to read:

36 648.285 Bond agency; ownership requirements.—

37 (1) A person may not own, control, or otherwise have a  
38 pecuniary interest in a bail bond agency unless such individual  
39 has successfully completed the requisite 1-year period as a  
40 temporary bail bond agent and has been fully licensed and  
41 appointed as a limited surety agent or professional bail bond  
42 agent for at least 4 years ~~is a licensed and appointed bail bond~~  
43 ~~agent~~. Any agency that is not in compliance with this subsection  
44 shall be subject to the issuance of an immediate final order of  
45 suspension of all operations until the agency achieves  
46 compliance.

47 Section 2. Paragraph (a) of subsection (2) of section  
48 648.34, Florida Statutes, is amended to read:

49 648.34 Bail bond agents; qualifications.—

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

55 (a) The applicant is a natural person who is at least ~~has~~  
56 ~~reached the age of 18 years~~ of age, and holds a high school  
57 diploma or its equivalent, and

58 1. Holds an associate degree from an accredited college,

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59 university, or community college; or

60 2. Has at least 2 years of continuous full-time experience  
61 in law enforcement or at least 2 years of continuous full-time  
62 experience in the military services and was honorably discharged  
63 before submitting an application.

64 Section 3. Subsection (1) of section 648.387, Florida  
65 Statutes, is amended to read:

66 648.387 Primary bail bond agents; duties.—

67 (1) The owner or operator of a bail bond agency shall  
68 designate a primary bail bond agent for each location, and shall  
69 file with the department the name and license number of the  
70 person and the address of the location on a form approved by the  
71 department. Before being designated as a primary bail bond  
72 agent, the bail bond agent must have first completed 2 years of  
73 continuous full-time experience of at least 30 hours of work per  
74 week as a duly licensed and appointed limited surety agent. The  
75 designation of the primary bail bond agent may be changed if the  
76 department is notified immediately. Failure to notify the  
77 department within 10 working days after such change is grounds  
78 for disciplinary action pursuant to s. 648.45.

79 Section 4. Paragraph (b) of subsection (1) and subsection  
80 (9) of section 648.44, Florida Statutes, are amended to read:

81 648.44 Prohibitions; penalty.—

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

83 (b) Directly or indirectly solicit business by a licensed  
84 or unlicensed person in or on the property or grounds of the  
85 residence of the defendant, the defendant's family, or bond  
86 indemnitor; on the ~~property or~~ grounds of a jail, prison, or  
87 other place where prisoners are confined; ~~or~~ in or on the

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88 property or grounds of any court or the residence of the  
89 detainee or the detainee's family. The term "solicitation"  
90 includes using the Internet to solicit a magistrate's court, to  
91 solicit a sheriff's website, the distribution of business cards,  
92 print advertising, or other written or oral information directed  
93 to prisoners or potential indemnitors by a licensed or  
94 unlicensed person at the jail or residence of the detainee,  
95 unless a request is initiated by the defendant, ~~prisoner or a~~  
96 ~~potential indemnitor~~, or an attorney. Permissible print  
97 advertising in the jail is strictly limited to a listing in a  
98 telephone directory and the posting of the bail bond agent's or  
99 agency's name, address, and telephone number in a designated  
100 location within the jail. Permissible Internet advertising on a  
101 website must prominently display the bail bond agent's or  
102 agency's physical address on the first or front page of all  
103 advertisements.

104 (9) (a) A ~~Any~~ person who violates ~~any provisions of~~  
105 paragraph (1) (e), paragraph (1) (f), paragraph (1) (g), paragraph  
106 (1) (j), ~~or~~ paragraph (1) (n), or subsection (2) commits a felony  
107 of the third degree, punishable as provided in s. 775.082, s.  
108 775.083, or s. 775.084.

109 (b) A ~~Any~~ person who violates the provisions of paragraph  
110 (1) (a), paragraph (1) (b), paragraph (1) (c), paragraph (1) (h),  
111 paragraph (1) (k), paragraph (1) (m), paragraph (1) (o), paragraph  
112 (1) (p), subsection (3), subsection (4), or subsection (5)  
113 commits a misdemeanor of the first degree, punishable as  
114 provided in s. 775.082 or s. 775.083. Upon the commission of a  
115 first offense, a fine of up to \$10,000 shall be levied against  
116 the offender, and his or her license as a limited surety agent

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117 or professional bail bond agent shall be suspended for 6 months.  
118 Upon the commission of a second offense, a fine of up to \$10,000  
119 shall be levied against the offender, and his or her license as  
120 a limited surety agent or professional bail bond agent shall be  
121 revoked. However, notwithstanding any other provision in this  
122 chapter, a person who has had his or her eligibility to hold a  
123 license or appointment revoked for violating this paragraph may  
124 not be granted a bail bond agent or temporary bail bond agent  
125 license until he or she demonstrates satisfactory completion of  
126 the limited surety agent and professional bail agent educational  
127 requirements, including serving as a temporary agent in  
128 accordance with s. 648.355.

129 Section 5. Section 903.045, Florida Statutes, is amended to  
130 read:

131 903.045 Nature of criminal surety bail bonds.—It is the  
132 public policy of this state and the intent of the Legislature  
133 that a criminal surety bail bond, executed by a bail bond agent  
134 licensed pursuant to chapter 648 in connection with the pretrial  
135 or appellate release of a criminal defendant, shall be construed  
136 as a commitment by and an obligation upon the bail bond agent to  
137 ensure that the defendant appears at all subsequent criminal  
138 proceedings ~~and otherwise fulfills all conditions of the bond.~~  
139 The failure of a defendant to appear at any subsequent criminal  
140 proceeding related to the case at issue ~~or the breach by the~~  
141 ~~defendant of any other condition of the bond~~ constitutes a  
142 breach by the bail bond agent of this commitment and obligation.

143 Section 6. Section 903.22, Florida Statutes, is amended to  
144 read:

145 903.22 Arrest of principal by surety before forfeiture.—

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146       (1) A surety may arrest the defendant before a forfeiture  
147 of the bond for the purpose of surrendering the defendant or the  
148 surety may authorize a peace officer to make the arrest by  
149 endorsing the authorization on a certified copy of the bond.

150       (2) The arrest of a defendant for or the charging of a  
151 defendant with a criminal offense other than a minor traffic  
152 violation while on bond with the surety, or his or her  
153 commission of any other violation of a pretrial condition  
154 ordered by the court, constitutes a breach of the bail bond  
155 conditions.

156       Section 7. Subsection (5) of section 903.26, Florida  
157 Statutes, is amended to read:

158       903.26 Forfeiture of the bond; when and how directed;  
159 discharge; how and when made; effect of payment.-

160       (5) The court must ~~shall~~ discharge a forfeiture within 60  
161 days after any of the following ~~upon~~:

162       (a) A determination that it was impossible for the  
163 defendant to appear as required due to circumstances beyond the  
164 defendant's control. The potential adverse economic consequences  
165 of appearing as required are ~~shall not be considered as~~  
166 ~~constituting~~ a ground for this ~~such a~~ determination.~~†~~

167       (b) A determination that, ~~at the time of the required~~  
168 ~~appearance,~~ the defendant was ~~adjudicated insane and~~ confined in  
169 an institution or hospital; ~~or~~ was confined in a local, state,  
170 federal, or immigration jail or prison or other detention  
171 center; or is deceased.~~†~~

172       (c) Surrender or arrest of the defendant if the delay has  
173 not thwarted the proper prosecution of the defendant. If the  
174 forfeiture has been before discharge, the court shall direct

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175 remission of the forfeiture. The court shall condition a  
176 discharge or remission on the payment of costs and the expenses  
177 incurred by an official in returning the defendant to the  
178 jurisdiction of the court.

179 Section 8. Subsection (2) of section 903.28, Florida  
180 Statutes, is amended to read:

181 903.28 Remission of forfeiture; conditions.—

182 (2) If the defendant surrenders or is apprehended within 90  
183 days after forfeiture, the court, on motion at a hearing upon  
184 notice having been given to the clerk of the circuit court and  
185 the state attorney as required in subsection (8), must ~~shall~~  
186 direct remission of up to, but not more than, 100 percent of a  
187 forfeiture if the surety apprehended and surrendered the  
188 defendant or if the apprehension or surrender of the defendant  
189 was substantially procured or caused by the surety, or the  
190 surety has substantially attempted to procure or cause the  
191 apprehension or surrender of the defendant, ~~and the delay has~~  
192 ~~not thwarted the proper prosecution of the defendant.~~ In  
193 addition, remission must ~~shall~~ be granted when the surety did  
194 not substantially participate or attempt to participate in the  
195 apprehension or surrender of the defendant if ~~when~~ the costs of  
196 returning the defendant to the jurisdiction of the court have  
197 been deducted from the remission and if ~~when~~ the delay has not  
198 thwarted the proper prosecution of the defendant.

199 Section 9. For the purpose of incorporating the amendment  
200 made by this act to section 648.387, Florida Statutes, in a  
201 reference thereto, subsection (2) of section 648.285, Florida  
202 Statutes, is reenacted to read:

203 648.285 Bond agency; ownership requirements.—

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204 (2) If the owner of a bail bond agency dies or becomes  
205 mentally incapacitated, a personal representative or legal  
206 guardian may be issued a temporary permit to manage the affairs  
207 of the bail bond agency. Such person must appoint or maintain  
208 the appointment of a primary bail bond agent, as provided in s.  
209 648.387, and may not engage in any activities as a licensed bail  
210 bond agent but must comply with s. 648.387 during the  
211 administration of the estate or guardianship. A temporary permit  
212 is valid for a maximum of 24 months.

213 Section 10. For the purpose of incorporating the amendment  
214 made by this act to section 648.44, Florida Statutes, in a  
215 reference thereto, subsection (4) of section 648.45, Florida  
216 Statutes, is reenacted to read:

217 648.45 Actions against a licensee; suspension or revocation  
218 of eligibility to hold a license.—

219 (4) Any licensee found to have violated s. 648.44(1)(b),  
220 (d), or (i) shall, at a minimum, be suspended for a period of 3  
221 months. A greater penalty, including revocation, shall be  
222 imposed if there is a willful or repeated violation of s.  
223 648.44(1)(b), (d), or (i), or the licensee has committed other  
224 violations of this chapter.

225 Section 11. For the purpose of incorporating the amendment  
226 made by this act to section 903.045, Florida Statutes, in a  
227 reference thereto, subsection (4) of section 903.36, Florida  
228 Statutes, is reenacted to read:

229 903.36 Guaranteed arrest bond certificates as cash bail.—

230 (4) The provisions of s. 903.045 applicable to bail bond  
231 agents shall apply to surety insurers and their licensed general  
232 lines agents who execute bail bonds pursuant to this section.



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Section 12. This act shall take effect July 1, 2015.