

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  
 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,  
 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  
 83 not:  
 84 (b) Directly or indirectly solicit business by a licensed  
 85 or unlicensed person in or on the property or grounds of the  
 86 residence of the defendant, the defendant's family, or bond  
 87 indemnitor; on the ~~property or~~ grounds of a jail, prison, or  
 88 other place where prisoners are confined; ~~or~~ in or on the  
 89 property or grounds of any court or the residence of the  
 90 detainee or the detainee's family. The term "solicitation"  
 91 includes using the Internet to solicit a magistrate's court, to  
 92 solicit a sheriff's website, the distribution of business cards,  
 93 print advertising, or other written or oral information directed  
 94 to prisoners or potential indemnitors by a licensed or  
 95 unlicensed person at the jail or residence of the detainee,  
 96 unless a request is initiated by the defendant, ~~prisoner or~~ a  
 97 potential indemnitor, or an attorney. Permissible print  
 98 advertising in the jail is strictly limited to a listing in a  
 99 telephone directory and the posting of the bail bond agent's or  
 100 agency's name, address, and telephone number in a designated  
 101 location within the jail. Permissible Internet advertising on a  
 102 website must prominently display the bail bond agent's or  
 103 agency's physical address on the first or front page of all  
 104 advertisements.

105 (9) (a) A ~~Any~~ person who violates ~~any provisions of~~  
106 paragraph (1) (e), paragraph (1) (f), paragraph (1) (g), paragraph  
107 (1) (j), ~~or~~ paragraph (1) (n), or subsection (2) commits a felony  
108 of the third degree, punishable as provided in s. 775.082, s.  
109 775.083, or s. 775.084.

110 (b) A ~~Any~~ person who violates the provisions of paragraph  
111 (1) (a), paragraph (1) (b), paragraph (1) (c), paragraph (1) (h),  
112 paragraph (1) (k), paragraph (1) (m), paragraph (1) (o), paragraph  
113 (1) (p), subsection (3), subsection (4), or subsection (5)  
114 commits a misdemeanor of the first degree, punishable as  
115 provided in s. 775.082 or s. 775.083. Upon the commission of a  
116 first offense, a fine of up to \$10,000 shall be levied against  
117 the offender, and his or her license as a limited surety agent  
118 or professional bail bond agent shall be suspended for 6 months.  
119 Upon the commission of a second offense, a fine of up to \$10,000  
120 shall be levied against the offender, and his or her license as  
121 a limited surety agent or professional bail bond agent shall be  
122 revoked. However, notwithstanding any other provision in this  
123 chapter, a person who has had his or her eligibility to hold a  
124 license or appointment revoked for violating this paragraph may  
125 not be granted a bail bond agent or temporary bail bond agent  
126 license until he or she demonstrates satisfactory completion of  
127 the limited surety agent and professional bail agent educational  
128 requirements, including serving as a temporary agent in  
129 accordance with s. 648.355.

130 Section 5. Section 903.045, Florida Statutes, is amended

131 to read:

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

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

146 903.22 Arrest of principal by surety before forfeiture.—

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

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

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

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

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

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

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

173 (c) Surrender or arrest of the defendant if the delay has  
 174 not thwarted the proper prosecution of the defendant. If the  
 175 forfeiture has been before discharge, the court shall direct  
 176 remission of the forfeiture. The court shall condition a  
 177 discharge or remission on the payment of costs and the expenses  
 178 incurred by an official in returning the defendant to the  
 179 jurisdiction of the court.

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

182 903.28 Remission of forfeiture; conditions.—

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

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

204           648.285 Bond agency; ownership requirements.—

205           (2) If the owner of a bail bond agency dies or becomes  
206 mentally incapacitated, a personal representative or legal  
207 guardian may be issued a temporary permit to manage the affairs  
208 of the bail bond agency. Such person must appoint or maintain



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209 the appointment of a primary bail bond agent, as provided in s.  
210 648.387, and may not engage in any activities as a licensed bail  
211 bond agent but must comply with s. 648.387 during the  
212 administration of the estate or guardianship. A temporary permit  
213 is valid for a maximum of 24 months.

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

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

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

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

230 903.36 Guaranteed arrest bond certificates as cash bail.—

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

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