Jennifer A. Parker *Legislative Service Commission*

Am. H.B. 730*

123rd General Assembly
(As Reported by S. Insurance, Commerce and Labor)

Reps. Goodman, Verich, Peterson, Evans, Coughlin, Corbin, Womer Benjamin, Robinson, A. Core, Jolivette, Terwilleger, Jerse, Damschroder, Vesper, Stapleton, Olman, Hollister, Britton, Mettler, Widener, Distel, Ogg, Grendell, Aslanides, Flannery, Wilson, Jacobson, Taylor, Stevens, Myers, Salerno, Schuler, Logan, Sulzer, Mottley, J. Beatty, Allen, Hoops, Hartnett, Perry, Boyd, Krupinski, Barnes, DePiero

BILL SUMMARY

- Provides for the regulation of surety bail bond agents by the Department of Insurance.
- Prohibits any person from apprehending or arresting a principal on bond unless the person meets specified criteria.
- Prohibits the use of the title "bail enforcement agent" or "bounty hunter."

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* *This analysis was prepared before the report of the Senate Insurance, Commerce and Labor Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

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CONTENT AND OPERATION

Overview

The bill enacts several provisions in the Insurance Agents Law (Chapter 3905. of the Revised Code) to provide for the regulation of surety bail bond agents by the Department of Insurance, including the licensing of such agents, the appointment of agents by insurers, agent registration, continuing education requirements, build-up funds and collateral security, prohibited activities, and grounds for disciplinary action. The bill also enacts provisions in the Criminal Code (Title 29) to prohibit any person from apprehending or arresting a principal on bond unless the person meets the criteria set forth in the bill and to prohibit the use of the title "bail enforcement agent" or "bounty hunter" in Ohio.

Regulation of surety bail bond agents

Licensing of agents

In general, a surety bail bond agent license issued pursuant to the bill authorizes the holder, when appointed by an insurer, to execute or countersign bail bonds in connection with judicial proceedings and to receive money or other things of value for those services. However, the holder cannot execute or deliver a bond during the *first 180 days* after the license is initially issued. (This restriction does not apply with respect to license renewals.) (R.C. 3905.85(C).)

For purposes of the bill, "**insurer**" means any domestic, foreign, or alien insurance company that has been issued a certificate of authority by the Superintendent of Insurance to transact surety business in Ohio (R.C. 3905.83(A)).

License required; persons not qualified to act as agents. The bill prohibits any person from acting in the capacity of a surety bail bond agent, or performing any

of the functions, duties, or powers prescribed for surety bail bond agents under the bill, *unless* that person is qualified, licensed, and appointed as provided in the bill. A violation of this prohibition is a misdemeanor of the first degree on a first or second offense and a felony of the third degree on each subsequent offense. (R.C. 3905.84 and 3905.99(E).)

The bill also clarifies that the current prohibition against soliciting or effecting insurance policies without being licensed by the Superintendent *includes* soliciting or effecting fidelity, surety, or guaranty bonds (R.C. 3905.01(A)).

Under the bill, the following persons *cannot* act as surety bail bond agents or employees of a surety bail bond agent or bail bond business and *cannot* directly or indirectly receive any benefits from the execution of a bail bond, except as a principal (R.C. 3905.841):

(1) Jailers or other persons employed in a detention facility (**COMMENT** 1);

(2) Peace officers (**COMMENT** 2) or other employees of a law enforcement agency;

(3) Committing magistrates, employees of a court, or employees of the clerk of any court;

(4) Attorneys;

(5) Any other persons having the power to arrest, or persons who have authority over or control of, federal, state, county, or municipal corporation prisoners.

Application; examination. An applicant for a license as a surety bail bond agent must submit an application in a manner prescribed by the Superintendent, along with a $150 fee and a statement that gives the applicant's name, age, residence, present occupation, occupation for the five years next preceding the date of the application, and any other information the Superintendent requires.

The applicant must request a criminal records check conducted by the Bureau of Criminal Identification and Investigation (BCII) and direct that BCII's written response to the request be transmitted to the Superintendent or the Superintendent's designee. The applicant is to pay any fee required by BCII for conducting the criminal records check. If the Superintendent or the Superintendent's designee does not receive BCII's response to an applicant's request, the Superintendent may refuse to issue a surety bail bond agent license.

If the Superintendent refuses to issue a license based in whole or in part upon BCII's written response to a criminal records check requested by an applicant, the Superintendent must send a copy of that response to the applicant upon the applicant's submission of a written request (R.C. 3905.85(D)).

Lastly, an applicant must submit to an examination as to the applicant's qualifications as set forth in the bill. (R.C. 3905.85(A).)

Issuance of a license; wallet identification card. The bill requires the Superintendent to issue a license stating in substance that the person is authorized to do the business of a surety bail bond agent, *if* the Superintendent is satisfied that (1) the applicant is 18 years of age or older (if a natural person), (2) the applicant is a person of high character and integrity, and (3) the applicant has successfully completed the educational requirements set forth in current law for an insurance agent's license (R.C. 3905.85(B) and 3905.48).

The Superintendent may prescribe the forms to be used as evidence of the issuance of a license. In addition, the Superintendent must require each licensee to acquire a wallet identification card from a source designated by the Superintendent. The identification card is to include the licensee's photograph and any other information required by the Superintendent. The licensee must keep the identification card on the licensee's person while engaging in the bail bond business. (R.C. 3905.85(G).)

The Superintendent is prohibited from issuing or renewing the license of a corporation, partnership, or limited liability company (LLC) organized under the laws of Ohio or of any other state unless the corporation, partnership, or LLC is qualified to do business in Ohio. The failure of a corporation, partnership, or LLC to be in good standing with the Secretary of State or to maintain a valid appointment of statutory agent is grounds for suspending, revoking, or refusing to renew its license.

The bill provides that, by applying for a surety bail bond agent license, an individual, corporation, partnership, or LLC consents to the jurisdiction of Ohio courts. It also provides that a licensed surety bail bond agent is an officer of the court. (R.C. 3905.85(H) and (I).)

License renewals; surrender (R.C. 3905.012 and 3905.85(E) and (F)). Unless revoked or suspended by the Superintendent or surrendered by the agent, a surety bail bond agent license may, in the discretion of the Superintendent, be renewed for a one-year period if payment of a $150 fee is made by the last day of February next after its issue and by the last day of February in each succeeding year (R.C. 3905.85(E) and (F)).

The bill permits any person licensed as surety bail bond agent to surrender the person's license, or to apply to the Superintendent for inactive status, in accordance with the current provisions applicable to insurance agents. (R.C. 3905.85(E) and (F) and 3905.012.)

Licensing fees of political subdivisions. The bill states that a surety bail bond agent qualified, licensed, and appointed in accordance with its provisions *cannot* be required to pay any licensing fee imposed by a political subdivision of this state to perform any of the functions, duties, or powers prescribed for surety bail bond agents under the bill (R.C. 3905.851).

Appointment of agents by insurers

Any person licensed as a surety bail bond agent may be appointed by an insurer, as follows (R.C. 3905.86 and 3905.861):

--Each insurer must certify to the Superintendent of Insurance, before June 30 each year, the names and addresses of the surety bail bond agents for whom it requests appointments or the continuance of appointments. By appointing a surety bail bond agent, an insurer certifies to the Superintendent that the person is "competent, financially responsible, and suitable to represent the insurer."

--Insurers must pay the Superintendent a fee of $20 for each appointment when issued and for each continuance. An appointment, unless canceled by the insurer, may be continued past June 30 next after its issue and after June 30 of each succeeding year provided the appointee is licensed and is eligible for the appointment.

--If the appointed surety bail bond agent is a member of an agency, partnership, corporation, or LLC, the insurer must require that all other surety bail bond agents who are members of that same agency, partnership, corporation, or LLC be appointed to represent the insurer.

A surety bail bond agent is prohibited from representing to the public that the agent has authority to represent a particular insurer until the insurer has acknowledged that authority by appointment of the agent. Upon the expiration or cancellation of a surety bail bond agent's appointment, the agent cannot engage or attempt to engage in any activity requiring such an appointment. However, an insurer that cancels the appointment of a surety bail bond agent may authorize the agent to continue to attempt the arrest and surrender of a defendant for whom a bail bond had been written prior to the cancellation and to seek discharge of forfeitures and judgments. (R.C. 3905.86(D) and 3905.862.)

Finally, the bill provides that an insurer is bound by the acts of the person named in the appointment within that person's actual or apparent authority as its agent (R.C. 3905.86(C)(2)).

Agent registration

The bill prohibits a surety bail bond agent from filing a bond in any Ohio court *unless* (1) the agent has registered with the clerk of that court, if the court requires registration, *and* (2) the agent has registered with the clerk of the court of common pleas of the county in which the agent resides.

To register, a surety bail bond agent must file, with the clerk of the court, a certified copy of the surety bail bond agent's appointment by power of attorney from each insurer that the agent represents. Registration and filing of a certified copy of a *renewed* power of attorney must occur by August 1 of each odd-numbered year. The bill prohibits the clerk of a court from accepting the registration of a surety bail bond agent unless the agent is currently licensed and appointed in accordance with the bill. (R.C. 3905.87.)

Continuing education requirements

(R.C. 3905.85(D) and 3905.88)

Each surety bail bond agent is required by the bill to complete at least 14 hours of continuing education offered in a course or program of study related to the bail bond business that is approved by the Superintendent of Insurance in consultation with the Insurance Agent Education Advisory Council. The Superintendent must suspend or revoke the license of any surety bail bond agent who fails to meet these requirements and has not been granted an extension of time within which to complete the requirements. The 14 hours of continuing education are to be completed every two-year period in accordance with sections 3905.481 and 3905.482 of the Revised Code--the continuing education requirements currently applicable to insurance agents.

The Superintendent is required to adopt, in accordance with the Administrative Procedure Act, any rule necessary to carry out the Superintendent's duties under this provision. (R.C. 3905.88 and 3905.85(D).)

Records; notification requirements

The bill requires each surety bail bond agent to maintain all records of surety bonds executed or countersigned by the agent for at least three years after the liability of the surety has been terminated. The records must be open at all times to examination, inspection, and photographic reproduction by any employee or agent of

the Department of Insurance or by any authorized representative of the insurer or managing general agent (MGA). The Superintendent of Insurance at any time may require the agent to furnish to the Department any information concerning the agent's surety bond business. (R.C. 3905.90.)

The bill also requires each surety bail bond agent to notify in writing the appropriate insurer or MGA, and the clerk of the court of common pleas of the county in which the agent resides, within 30 days after a change in the agent's principal business address or telephone number. This notification requirement is in addition to the notification requirements currently applicable to insurance agents (sec. 3905.54, not in the bill). (R.C. 3905.89.)

As used in the bill, "**surety**" means an insurer that agrees to be responsible for the fulfillment of the obligation of a principal if the principal fails to fulfill that obligation (**COMMENT** 3). "**Managing general agent (MGA)**" is defined as any person that is appointed or employed by an insurer to supervise or otherwise manage the bail bond business written in Ohio by surety bail bond agents appointed by the insurer. (R.C. 3905.83(B) and (C).)

Build-up funds

Under the bill, all build-up funds posted by a surety bail bond agent or MGA, either with an insurer or MGA representing an insurer, must be maintained in an individual build-up trust account for the surety bail bond agent by the insurer or the MGA. The insurer or MGA is required to establish the account in a federally insured bank or savings and loan association in this state jointly in the name of the surety bail bond agent and the insurer or MGA, or in trust for the surety bail bond agent by the insurer or MGA. The account must be open to inspection and examination by the Department of Insurance at all times.

Build-up funds are limited by the bill to 40% of the premium as established by the surety bail bond agent's contract agreement with the insurer or MGA. Build-up funds received must be immediately deposited to the build-up trust account. Interest earned on build-up trust accounts must accrue to the surety bail bond agent. The bill requires the insurer or MGA to maintain an accounting of the funds that designates the amounts collected on each bond written.

Build-up funds are due upon termination of the surety bail bond agent's contract and discharge of liabilities on the bonds for which the funds were posted. The insurer or MGA must pay the funds to the surety bail bond agent not later than six months after the funds are due. (R.C. 3905.91.)

Collateral security

General requirements (sec. 3905.92(A), (B), and (E)). The bill sets forth the following requirements and restrictions with respect to collateral security or other indemnity accepted by a surety bail bond agent (R.C. 3905.92(A), (B), and (E)):

--The collateral security or other indemnity (a) must be reasonable in relation to the amount of the bond, (b) cannot be used by the agent for personal benefit or gain, and (c) must be returned in the same condition as received.

--Acceptable forms of collateral security or indemnity include cash or its equivalent, a promissory note, an indemnity agreement, a real property mortgage in the name of the surety, and any filing under the Secured Transactions Law (Chapter 1309.). If the agent accepts on a bond collateral security in excess of $50,000 in cash, the cash amount must be made payable to the surety in the form of a cashier's check, U.S. postal money order, certificate of deposit, or wire transfer.

--The agent must provide to the person giving the collateral security or other indemnity, a written, numbered receipt that describes in a detailed manner the collateral security or other indemnity received, along with copies of any documents rendered.

--The collateral security or other indemnity must be received and held in the surety's name by the agent in a fiduciary capacity and, prior to any forfeiture of bail, must be kept separate (and apart) from any other funds or assets of the agent. However, collateral security on a bond in excess of $50,000 in cash or its equivalent promptly must be forwarded to the surety or MGA.

--Surety bail bond agents and sureties are prohibited from entering into any agreement as to the value of collateral.

--Collateral security may be placed in an interest-bearing account in a federally insured bank or savings and loan association in Ohio, to accrue to the benefit of the person giving the collateral security. The surety bail bond agent, surety, or MGA is prohibited from making any pecuniary gain on the collateral security deposited.

Liability of the surety. Under the bill, the surety is liable for all collateral security or other indemnity accepted by a surety bail bond agent. If, upon final termination of liability on a bond, the surety bail bond agent or MGA fails to return the collateral security to the person that gave it, the surety must return the actual collateral to that person or, in the event that the surety cannot locate the collateral, pay the person in accordance with the bill. The liability of the surety survives the

termination of the surety bail bond agent's appointment, with respect to those bonds that were executed by the agent prior to the termination of the appointment. (R.C. 3905.92(C).)

Forfeiture. If a forfeiture occurs, the surety bail bond agent or surety must give the principal and the person that gave the collateral security ten days' written notice of intent to convert the collateral deposit into cash to satisfy the forfeiture. The notice is to be sent by certified mail, return receipt requested, to the last known address of the principal and the person that gave the collateral.

The bill requires the surety bail bond agent or surety to convert the collateral deposit into cash within a reasonable period of time and to return that which is in excess of the face value of the bond minus the actual and reasonable expenses of converting the collateral into cash. These expenses cannot exceed 10% of the face value of the bond. However, upon motion and proof that the actual and reasonable expenses exceed 10%, the court may allow recovery of the full amount of the actual and reasonable expenses. If there is a remission of forfeiture that required the surety to pay the bond to the court, the surety must pay to the person that gave the collateral the value of any collateral received for the bond minus the actual and reasonable expenses permitted to be recovered. (R.C. 3905.92(D).)

Waiver of provisions; penalty for failure to comply. The bill prohibits any surety bail bond agent or surety from soliciting or accepting a waiver of any of the above provisions dealing with collateral. In addition, a failure to comply with any of those provisions is a misdemeanor of the first degree. (R.C. 3905.92(E) and (F) and 3905.99(D).)

Discharge of the bond; failure to return collateral. If collateral security or other indemnity is accepted on a bond, the surety bail bond agent, MGA, or surety must make, upon demand, a written request to the court for a discharge of the bond to be delivered to the surety or the surety's agent.

If the obligation of the surety on the bond is released in writing by the court and a discharge is provided to the surety or the surety's agent, the collateral security or other indemnity (except a promissory note or an indemnity agreement) must be returned, within 21 days after the discharge is provided, to the person that gave the collateral security or other indemnity, unless another disposition is provided for by legal assignment of the right to receive the collateral to another person. If, despite diligent inquiry by the surety or the surety's agent to determine that the bond has been discharged, the court fails to provide a written discharge within 30 days after the written request was made to the court, the bond is to be considered canceled by operation of law, and the collateral security or other indemnity (except a promissory note or an indemnity agreement) must be returned, within 21 days after the written

request for discharge was made to the court, to the person that gave the collateral security or other indemnity.

No fee or other charge, other than those authorized by the bill or by rule of the Superintendent of Insurance, may be deducted from the collateral due. However, allowable expenses incurred in the apprehension of a defendant because of a forfeiture of bond or judgment may be deducted if those expenses are accounted for. (R.C. 3905.921(A) and (B).)

The bill prohibits any person from failing to return collateral security in accordance with these requirements. A violation of this prohibition is punishable as follows (R.C. 3905.921(C)):

Value of the Collateral	Penalty
Less than $500	First degree misdemeanor
At least $500 but less than $5,000	Fifth degree felony
At least $5,000 but less than $10,000	Fourth degree felony
At least $10,000	Third degree felony

Prohibited activities

Surety bail bond agents (R.C. 3905.933 and 3905.934). The bill prohibits a surety bail bond agent from doing any of the following:

(1) Executing a bail bond without (a) charging the premium rate filed with and approved by the Superintendent of Insurance and (b) disclosing the expense fee that will be charged to cover the costs incurred by the agent in executing the bond (R.C. 3905.93). (Current law restricts the consumer fees that may be charged by insurance agents. The bill exempts from that provision any expense fee "charged by a surety bail bond agent to cover the costs incurred by the surety bail bond agent in executing the bail bond" (R.C. 3905.55(F)).)

(2) Signing or countersigning in blank any bond, or giving a power of attorney to, or otherwise authorizing, anyone to countersign the surety bail bond agent's name to a bond unless the person so authorized is a licensed and appointed surety bail bond agent directly employed by the surety bail bond agent giving that authority (R.C. 3905.933(A));

(3) Dividing with any other person, or sharing in, any commissions payable on account of a bail bond, except as between other surety bail bond agents that are licensed or otherwise qualified to engage in the bail bond business in their state of domicile (R.C. 3905.933(B));

(4) Making, publishing, or otherwise disseminating, directly or indirectly, any misleading or false advertisement, or engaging in any other deceptive trade practice. Relatedly, the bill requires that all advertising by a surety bail bond agent include the address of record of the agent on file with the Department of Insurance. (R.C. 3905.934.)

Surety bail bond agents and insurers. The bill prohibits any surety bail bond agent or insurer from doing any of the following (R.C. 3905.932):

(1) Suggesting or advising the employment of, or naming for employment, any particular attorney to represent its principal;

(2) Directly or indirectly soliciting business in, or on the property or grounds of, a detention facility or any court. The term "solicit" includes the distribution of business cards, print advertising, or any other written information directed to prisoners or potential indemnitors, unless a request is initiated by the prisoner or potential indemnitor. Under the bill, permissible print advertising in a detention facility is strictly limited to a listing in a telephone directory and the posting of the surety bail bond agent's name, address, and telephone number in a designated location within the detention facility.

(3) Wearing or otherwise displaying any identification, other than a wallet identification card required by the bill, in, or on the property or grounds of, a detention facility or any court;

(4) Paying a fee or rebate or giving or promising anything of value to any of the following:

(a) A jailer, law enforcement officer, committing magistrate, or other person who has power to arrest or to hold in custody, or to any public official or public employee, in order to secure a settlement, compromise, remission, or reduction of the amount of any bail bond or estreatment of bail;

(b) An attorney in a bail bond matter, except in defense of any action on a bond;

(c) The principal or to anyone in the principal's behalf.

(5) Participating in the capacity of an attorney at a trial or hearing of a principal;

(6) Accepting anything of value from a principal for providing a bail bond, other than the premium filed with and approved by the Superintendent of Insurance and an expense fee, except that the agent may, in accordance with the bill, accept collateral security or other indemnity from a principal or other person together with documentary stamp taxes if applicable. No fees, expenses, or charges of any kind may be deducted from the collateral held or any return premium due, except as authorized by the bill or by rule of the Superintendent. The bill permits a surety bail bond agent, upon written agreement with another party, to receive compensation for returning to custody an individual who has fled the jurisdiction of the court or caused the forfeiture of a bond.

(7) Executing a bond in Ohio (a) on the person's own behalf or (b) if a judgment has been entered on a bond executed by the agent, which judgment has remained unpaid for at least 60 days after all appeals have been exhausted (unless the full amount of the judgment is deposited with the clerk of the court).

Surety bail bond agents, insurers, and MGAs (R.C. 3905.931 and 3905.99(D)). The bill prohibits any surety bail bond agent, insurer, or MGA from furnishing to any person any blank form, application, stationery, business card, or other supplies to be used in soliciting, negotiating, or effecting bail bonds *unless* the person is licensed to act as a surety bail bond agent and is appointed by an insurer. A violation of this prohibition is a misdemeanor of the first degree. Additionally, an insurer that furnishes any of those supplies to a surety bail bond agent or other person not appointed by an insurer and that accepts any bail bond business from or writes any bail bond business for that agent or other person is liable on the bond to the same extent and in the same manner as if the agent or other person had been appointed or authorized by an insurer to act in its behalf.

The bill does not, however, prohibit an unlicensed employee under the direct supervision and control of a licensed and appointed surety bail bond agent from possessing or executing any form (other than a power of attorney, bond form, or collateral receipt) in the surety bond office while acting within the scope of the employee's employment. (R.C. 3905.931.)

Grounds for disciplinary action; procedures

(R.C. 3905.94 and 3905.941)

Under the bill, the grounds for disciplinary action and procedures currently applicable to insurance agents is extended to apply to surety bail bond agents. Consequently, the Superintendent of Insurance may suspend, revoke, or refuse to issue or renew a surety bail bond agent license, or impose any other sanction authorized under the Insurance Agents Law, for the reasons specified in, and in accordance with the procedures provided by, current law. The bill makes

conforming changes where necessary, and adds "engaging in any dishonest practice in connection with the business of insurance" as an additional reason for disciplinary action. It also adds, with respect to a surety bail bond agent license, "rebating or offering to rebate, or unlawfully dividing or offering to divide, any commission." The Superintendent is also permitted to revoke a license as a surety bail bond agent if the licensee is adjudged bankrupt.

Upon the suspension or revocation of a surety bail bond agent license, or the eligibility of a surety bail bond agent to hold a license, the Superintendent likewise may suspend or revoke the license or eligibility of any surety bail bond agent who is employed by or associated with that agent *and* who knowingly was a party to the act that resulted in the suspension or revocation. If the Superintendent suspends or revokes a person's license as a surety bail bond agent, the person, during the period of suspension or revocation, cannot (1) be employed by any surety bail bond agent, (2) have any ownership interest in any business involving bail bonds, or (3) have any financial interest of any type in any bail bond business. (R.C. 3905.49 and 3905.94.)

Upon the surrender, suspension, or revocation of a surety bail bond agent's license, the appointing insurer or MGA must immediately designate a licensed and appointed surety bail bond agent to administer all bail bonds previously written by the licensee (R.C. 3905.941).

Disposition of fees

(R.C. 3905.85(J) and 3905.86(B))

All license application and renewal fees and agent appointment fees collected under the bill are to be paid into the state treasury to the credit of the Department of Insurance Operating Fund (R.C. 3905.85(J) and 3905.86(B)).

Rule-making authority of the Superintendent

The bill requires the Superintendent of Insurance to adopt, in accordance with the Administrative Procedure Act, any rules necessary to implement the bill's provisions (R.C. 3905.95).

"Grandfathering" provision; transition

(Sections 4 and 5)

Any person who, on the effective date of the bill, is licensed as a property/casualty insurance agent in Ohio and is actively engaged in the business of posting bail bonds, is *not* subject to section 3905.841 of the bill (relative to the persons who cannot act as surety bail bond agents) and is *not* required to take an

examination for licensure as a surety bail bond agent, *if* the person applies for the license during the six-month period immediately following the bill's effective date.

The bill also states that it is the intent of the General Assembly that the Superintendent of Insurance take any action necessary to provide for an orderly transition for those persons who, on the bill's effective date, perform the functions, duties, or powers prescribed for surety bail bond agents under the bill. Consequently, the Department of Insurance is required to accept license applications submitted by such persons beginning on the bill's effective date and to make every effort possible to act upon the applications within the six-month period immediately following that date.

"Illegal bail bond agent practices"

Apprehension of a principal on bond

The bill prohibits any person (other than a law enforcement officer) from apprehending, detaining, or arresting a principal on bond, wherever issued, *unless* that person meets *all* of the following criteria (R.C. 2927.27(A)):

(1) The person is (a) qualified, licensed, and appointed as a surety bail bond agent in accordance with the bill, (b) licensed as a surety bail bond agent by the state where the bond was written, (c) licensed as a private investigator under the Private Investigators Law (Chapter 4749.), (d) licensed as a private investigator by the state where the bond was written, or (e) an off-duty peace officer (**COMMENT** 2).

(2) The person, prior to apprehending, detaining, or arresting the principal, has entered into a written contract with the surety or with a licensed surety bail bond agent appointed by the surety, which contract sets forth the name of the principal who is to be apprehended, detained, or arrested.

(3) The person, prior to apprehending, detaining, or arresting the principal, has notified the local law enforcement agency having jurisdiction over the area in which such activities will be performed and has provided any form of identification or other information requested by the law enforcement agency.

A violation of this prohibition is a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to two or more violations of this prohibition, a felony of the third degree (R.C. 2927.27(C)(2)).

Use of certain titles

The bill also prohibits persons from representing themselves to be bail enforcement agents or bounty hunters, or from claiming any similar title, in Ohio (R.C. 2927.27(B)).

A violation of this prohibition is a misdemeanor of the first degree or, if the offender previously has been convicted of or pleaded guilty to two or more violations of this prohibition, a felony of the third degree (R.C. 2927.27(C)(3)).

Other changes

Appointment of life and other-than-life insurance agents

(R.C. 3905.011(C)(1))

Current law provides for the appointment of life insurance agents and other-than-life insurance agents by insurers. Under that law an insurer must certify to the Superintendent of Insurance, prior to appointing an agent, that the person is competent, financially responsible, and suitable to represent the insurer.

Under the bill, an insurer certifies those qualifications to the Superintendent *by appointing the agent*. (This language is similar to that provided under the bill for the appointment of surety bail bond agents (see "***Appointment of agents by insurers***," above).)

Technical change

(R.C. 3905.81)

The bill amends current section 3905.86 to renumber it "3905.81."

When the bill is to take effect

(Section 3)

The bill's codified provisions are to take effect six months after the effective date of the bill.

COMMENT

1. As used in the bill, "detention facility" has the same meaning as in section 2921.01 of the Revised Code (R.C. 3905.841(A)):

> Detention facility means any public or private place used for the confinement of a person charged with or convicted of any crime in this state or another state or under the laws of the United States or alleged or found to be a delinquent child or unruly child in this state or another state or under the laws of the United States.

2. "Peace officer" has the same meaning as in section 2921.51 of the Revised Code, and means a sheriff, deputy sheriff, marshal, deputy marshal, member of the organized police department of a municipal corporation, or township constable, who is employed by a political subdivision of this state, a member of a metropolitan housing authority police force, member of a regional transit authority police force, a state university law enforcement officer, an Ohio veterans' home policeman, or a State Highway Patrol trooper and whose primary duties are to preserve the peace, to protect life and property, and to enforce the laws, ordinances, or rules of the state or any of its political subdivisions (R.C. 3905.841(B)).

3. As defined in *Black's Law Dictionary* (Fifth Edition), "principal" is the person primarily liable, for whose performance of an obligation the guarantor or surety has become bound.

HISTORY

ACTION	DATE	JOURNAL ENTRY	
Introduced	06-07-00	pp.	2184-2185
Reported, H. Criminal Justice	11-14-00	p.	2343
Passed House (93-0)	11-15-00	pp.	2359-2361
Reported, S. Insurance, Commerce & Labor	---		---

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