

FIRST REGULAR SESSION

SENATE BILL NO. 157

92ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR BLAND.

Pre-filed December 1, 2002, and 1,000 copies ordered printed.

0032S.06I

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 374.700, 374.705, 374.710, 374.715, 374.720, 374.725, 374.730, 374.735, and 374.740, RSMo, and to enact in lieu thereof ten new sections relating to the licensing of surety recovery agents.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 374.700, 374.705, 374.710, 374.715, 374.720, 374.725, 374.730, 374.735, and 374.740, RSMo, are repealed and ten new sections enacted in lieu thereof, to be known as sections 374.700, 374.705, 374.710, 374.715, 374.720, 374.725, 374.730, 374.735, 374.740, and 374.743, to read as follows:

374.700. 1. **Sections 374.700 to 374.755 shall be known and may be cited as the "Surety Recovery Agent Licensure Act".**

2. As used in sections 374.700 to 374.775, the following terms shall mean:

(1) "Bail bond agent", a surety agent or an agent of a property bail bondsman who is duly licensed [under] **pursuant to** the provisions of sections 374.700 to 374.775, is employed by and is working under the authority of a licensed general bail bond agent;

(2) "Department", the department of insurance of the state of Missouri;

(3) "Director", the director of the department of insurance;

(4) **"Fugitive recovery", the tracking down and recapturing of a fugitive who has violated a bail bond agreement;**

[(4)] (5) "General bail bond agent", a surety agent or a property bail bondsman, as

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

defined in sections 374.700 to 374.775, who is licensed in accordance with sections 374.700 to 374.775 and who devotes at least fifty percent of his working time to the bail bond business in this state;

[(5)] (6) "Property bail bondsman", a person who pledges United States currency, United States postal money orders or cashier's checks or other property as security for a bail bond in connection with a judicial proceeding, and who receives or is promised therefor money or other things of value;

[(6)] (7) "Surety bail bond agent", any person appointed by an insurer by power of attorney to execute or countersign bail bonds in connection with judicial proceedings, and who receives or is promised money or other things of value therefor;

[(7)] (8) "Surety recovery agent", a person not performing the duties of a sworn peace officer who tracks down[,] **and** captures [and surrenders to the custody of a court] a fugitive who has violated a bail bond agreement, [excluding] **including** a bail bond agent or general bail bond agent.

374.705. 1. The department shall administer and enforce the provisions of sections 374.700 to 374.775, prescribe the duties of its officers and employees with respect to sections 374.700 to 374.775, and promulgate, pursuant to section 374.045 and chapter 536, RSMo, such rules and regulations within the scope and purview of the provisions of sections 374.700 to 374.775 as the director considers necessary and proper for the effective administration and interpretation of the provisions of sections 374.700 to 374.775.

2. The director shall set the amount of all fees authorized and required by the provisions of sections 374.700 to 374.775 by rules and regulations promulgated pursuant to chapter 536, RSMo. All such fees shall be set at a level designed to produce revenue which shall not substantially exceed the cost and expense of administering the provisions of sections 374.700 to 374.775.

374.710. 1. Except as otherwise provided in sections 374.700 to 374.775, no person or other entity shall practice as a bail bond agent [or], general bail bond, **or surety recovery agent**, as defined in section 374.700, in [Missouri] **this state** unless and until the department has issued to [him] **such person** a license, to be renewed each year as hereinafter provided, to practice as a bail bond agent [or], general bail bond, **or surety recovery agent**.

2. Nothing in sections 374.700 to 374.775 shall be construed to prohibit any person from posting or otherwise providing a bail bond in connection with any legal proceeding, provided that such person receives no fee, remuneration or consideration therefor.

374.715. 1. Applications for examination and licensure as a bail bond agent [or], general bail bond agent **or surety recovery agent** shall be in writing and on forms prescribed and furnished by the department, and shall contain such information as the department requires. Each application shall be accompanied by proof satisfactory to the department that the

applicant is a citizen of the United States, is at least twenty-one years of age, **has a high school diploma or general educational development certificate (GED)**, is of good moral character, and meets the qualifications for surety on bail bonds as provided by supreme court rule. Each application shall be accompanied by the examination and application fee set by the department. In addition, each applicant for licensure as a general bail bond agent shall furnish proof satisfactory to the department that the applicant, or, if the applicant is a corporation or partnership, that each officer or partner thereof has completed at least two years as a bail bond agent, as defined in sections 374.700 to 374.775, and that the applicant possesses liquid assets of at least ten thousand dollars, along with a duly executed assignment of ten thousand dollars to the state of Missouri, which assignment shall become effective upon the applicant's violating any provision of sections 374.700 to 374.775. The assignment required by this section shall be in the form, and executed in the manner, prescribed by the department.

2. The basic course of training shall be approved by the department of insurance and consist of at least twenty hours of training, be taught by the department of public safety and include instruction consisting of the following:

- (1) Areas of law:**
 - (a) Constitutional law;**
 - (b) Procedures for arresting defendants and surrendering defendants into custody;**
 - (c) Civil liability;**
 - (d) The civil rights of persons who are detained in custody;**
 - (e) The use of force;**
 - (f) Handcuffing techniques;**
 - (g) Mace; and**
 - (h) Any certified law enforcement class approved by the department that would train bail enforcement agents the proper procedure for handling defendants;**
- (2) Procedures for field operations, including, without limitation:**
 - (a) Safety and survival techniques;**
 - (b) Searching buildings;**
 - (c) Handling persons who are mentally ill or under the influence of alcohol or a controlled substance; and**
 - (d) The care and custody of prisoners;**
- (3) Skills required regarding:**
 - (a) Writing reports, completing forms, and procedures for exoneration;**
 - (b) Methods of arrest;**
 - (c) Nonlethal weapons;**
 - (d) Retention of weapons;**

(e) **Qualifications for the use of firearms;**

(f) **Defensive tactics; and**

(g) **Principals of investigation, including, without limitation, the basic principles of locating defendants who have not complied with the terms and conditions established by a court for their release from custody or the terms and conditions of a contract entered into with a surety; and**

(4) **The following subjects:**

(a) **Demeanor in a courtroom;**

(b) **First aid used in emergencies; and**

(c) **Cardiopulmonary resuscitation.**

374.720. 1. Each applicant for licensure as a general bail bond **or surety recovery** agent, after complying with this section and the provisions of section 374.715, shall be issued a license by the department unless grounds exist **[under] pursuant to** section 374.755 for denial of a license.

2. Any surety recovery agent licensed pursuant to this section shall be employed by no more than one bail bond agent.

[2.] 3. Each applicant for examination and licensure as a bail bond agent, after complying with the provisions of section 374.715, shall appear for examination at the time and place specified by the department. Such examination shall be as prescribed by the director as provided **[under] pursuant to** section 375.018, RSMo, and shall be designed to test the applicant's knowledge and expertise in the area of surety bonds in general and the practice of a bail bond agent, as defined in sections 374.700 to 374.775, in particular. The applicant shall be notified of the result of the examination within twenty working days of the examination. Any applicant who fails such examination may, upon reapplication and payment of the reexamination fee set by the department, retake the examination.

374.725. Any person who, on September 28, 1983, is acting in any capacity which would be classified as practicing as a bail bond agent or general bail bond agent **[under] pursuant to** the provisions of sections 374.700 to 374.775 may continue to act in such capacity without being licensed **[under] pursuant to** sections 374.700 to 374.775 for a period of twelve months from September 28, 1983.

374.730. All licenses issued to bail bond agents **[and], general bail bond, and surety recovery** agents **[under] pursuant to** the provisions of sections 374.700 to 374.775 shall be renewed annually, which renewal shall be in the form and manner prescribed by the department and shall be accompanied by the renewal fee set by the department. **Any complaints made against any person licensed pursuant to this section shall be investigated by the department of insurance and may be grounds for denial of the renewal of a license issued pursuant to this section.**

374.735. 1. The department may, in its discretion, grant a license without requiring an examination to a bail bond agent who has been licensed in another state immediately preceding his applying to the department, if the department is satisfied by proof adduced by the applicant that his qualifications are at least equivalent to the requirements for initial licensure as a bail bond agent in [Missouri under] **this state pursuant to** the provisions of sections 374.700 to 374.775[,], **and who has had no violations, suspensions, or revocations of a license to engage in fugitive recovery in any jurisdiction, and such general bail bond agent employs a surety recovery agent holding a valid Missouri surety recovery license. A person licensed pursuant to this section shall be accompanied by a local law enforcement official during an arrest.**

2. Every applicant for a license pursuant to this section, upon making application and showing the necessary qualification as provided in this section, shall be required to pay the same fee as the fee required to be paid by resident applicants. Within the limits provided in this section, the department may negotiate reciprocal compacts with licensing entities of other states for the admission of licensed surety recovery agents from Missouri in other states.

374.740. Any person applying to be licensed as a nonresident [bail bond agent or nonresident] general bail bond agent who has been licensed in another state shall devote fifty percent of his working time in the state of Missouri and shall file proof with the director of insurance as to his compliance, and accompany his application with the fee set by the board and, if applying for a nonresident general bail bond agent's license, with a duly executed assignment of twenty-five thousand dollars to the state of Missouri, which assignment shall become effective upon the applicant's violating any provision of sections 374.700 to 374.775. Failure to comply with this section will result in revocation of the nonresidence license. The assignment required by this section shall be in the form and executed in the manner prescribed by the department. All licenses issued [under] **pursuant to** this section shall be subject to the same renewal requirements set for other licenses issued [under] **pursuant to** sections 374.700 to 374.775.

374.743. 1. No person licensed pursuant to sections 374.700 to 374.775 shall wear, carry, or display any uniform, badge, shield, or other insignia or emblems that purport to indicate that such person is an employee, officer, or agent of the state or any political subdivision of this state or of the federal government.

2. Persons licensed pursuant to the provisions of sections 374.700 to 374.755 shall carry identification cards issued by the department of insurance that contain a photograph and signature of the licensee.

3. No person licensed pursuant to the provisions of sections 374.700 to 374.775 shall carry any dangerous weapon including, but not limited to, any pistol, revolver, or other firearm while engaged as a bail bond agent, general bail bond agent, or

surety recovery agent.

4. Persons licensed pursuant to the provisions of sections 374.700 to 374.755 shall notify local law enforcement and be accompanied by at least one local law enforcement officer when performing the duties of fugitive recovery.

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