

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILLS NOS. 1027 & 896

92ND GENERAL ASSEMBLY

Reported from the Committee on Financial and Governmental Organization, Veterans' Affairs and Elections, March 4, 2004, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

3585S.06C

AN ACT

To repeal sections 374.700, 374.705, 374.710, 374.715, 374.725, 374.730, 374.735, 374.740, 374.755, 374.757, 374.763, 544.640, and 544.650, RSMo, and to enact in lieu thereof twenty-five new sections relating to the licensing of surety recovery agents, with penalty provisions.

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374.710, 374.715, 374.725, 374.730, 374.735, 374.740, 374.755, 374.757, 374.763, 544.640, and 544.650, RSMo, are repealed and twenty-five new sections enacted in lieu thereof, to be known as sections 374.695, 374.700, 374.702, 374.705, 374.710, 374.715, 374.716, 374.717, 374.719, 374.730, 374.735, 374.740, 374.755, 374.757, 374.759, 374.763, 374.764, 374.783, 374.784, 374.785, 374.786, 374.787, 374.788, 374.789, and 544.640, to read as follows:

374.695. Sections 374.695 to 374.789 may be known and shall be cited as the "Professional Bail Bondsman and Surety Recovery Agent Licensure Act".

374.700. As used in sections [374.700 to 374.775] **374.695 to 374.789**, 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] **374.695 to 374.789**, is employed by and is working under the authority of a licensed general bail bond agent;

(2) "Bail bond or appearance bond", a bond for a specified monetary amount which is executed by the defendant and a qualified licensee pursuant to sections 374.695 to 374.789, and which is issued to a court or authorized officer as security for the subsequent court appearance of the defendant upon the defendant's release from actual custody pending the appearance;

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

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

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

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

(6) "Insurer", any surety insurance company which is qualified by the department to transact surety business in Missouri;

(7) "Licensee", a bail bond agent or a general bail bond agent;

[5] (8) "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] (9) "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] (10) "Surety recovery agent", a person not performing the duties of a sworn peace officer who tracks down, captures and surrenders to the custody of a court a fugitive who has violated a bail bond agreement, excluding a bail bond agent or general bail bond agent;

(11) "Taking a bail" or "take bail", the acceptance by a person authorized to take bail of the undertaking of a sufficient surety for the appearance of the defendant according to the terms of the undertaking or that the surety will pay to the court the sum specified. Taking of bail or take bail does not include the fixing of the amount of bail and no person other than a competent court shall fix the amount of bail.

374.702. 1. No person shall engage in the bail bond business as a bail bond agent or a general bail bond agent without being licensed as provided in sections 374.695 to 374.775.

2. No judge, attorney, court official, law enforcement officer, state, county, or municipal employee who is either elected or appointed shall be licensed as a bail bond agent or a general bail bond agent.

3. A licensed bail bond agent shall not execute or issue an appearance bond in this state without holding a valid appointment from a general bail bond agent and without attaching to the appearance bond an executed and prenumbered power of attorney referencing the general bail bond agent or insurer.

4. A person licensed as an active bail bond agent shall hold the license for at least two years prior to owning or being an officer of a licensed general bail

bond agent.

5. A general bail bond agent shall not engage in the bail bond business:

(1) Without having been licensed as a general bail bond agent pursuant to sections 374.695 to 374.789;

(2) Except through an agent licensed as a bail bond agent pursuant to sections 374.695 to 374.789.

6. A general bail bond agent shall not permit any unlicensed person to solicit or engage in the bail bond business on the general bail bond agent's behalf, except for individuals who are employed solely for the performance of clerical, stenographic, investigative, or other administrative duties which do not require a license pursuant to sections 374.695 to 374.789.

7. Any person who is convicted of a violation of this section is guilty of a class A misdemeanor. For any subsequent convictions, a person who is convicted of a violation of this section is guilty of a class D felony.

8. Nothing in sections 374.695 to 374.789 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.

374.705. 1. The department shall administer and enforce the provisions of sections [374.700 to 374.775] **374.695 to 374.789**, prescribe the duties of its officers and employees with respect to sections [374.700 to 374.775] **374.695 to 374.789**, 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] **374.695 to 374.789** as the director considers necessary and proper for the effective administration and interpretation of the provisions of sections [374.700 to 374.775] **374.695 to 374.789**.

2. The director shall set the amount of all fees authorized and required by the provisions of sections [374.700 to 374.775] **374.695 to 374.789** 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] **374.695 to 374.789**. **However, such fees shall not exceed one hundred fifty dollars every two years for biennial licenses and renewable licenses for general bail bond agents as provided for in section 374.710.**

374.710. 1. Except as otherwise provided in sections [374.700 to 374.775] **374.695 to 374.789**, no person or other entity shall practice as a bail bond agent or general bail bond agent, as defined in section [374.700] **374.695**, in Missouri unless and until the department has issued to him **or her** a license, to be renewed [each year] **every two years** as hereinafter provided, to practice as a bail bond agent or general bail bond agent.

2. Newly licensed bail bond agents and general bail bond agents applicants shall not be issued a license unless they receive sixteen hours of initial basic training in areas of instruction in subjects determined by the director deemed appropriate to professionals in the bail bonds profession. Bail bond agents and general bail bond agents who are licensed at the date which this act becomes law shall be exempt from such sixteen hours of initial basic training.

3. In addition to the sixteen hours of initial basic training to become a bail bond agent or general bail bond agent, there shall be eight hours of biennial continuing education for all bail bond agents and general bail bond agents to maintain their state license. The director shall determine said appropriate areas of instruction for said biennial continuing education. The department may provide said courses for the initial basic training and the biennial continuing education instructions. If the department provides said courses, the cost shall not exceed two hundred dollars for the initial basic training and one hundred fifty dollars for the biennial continuing education. The department may, under the director, allow state institutions, organizations, associations, or individuals to provide courses for the initial basic training and the biennial continuing education training at no higher costs to the applicants than the department may charge under said section.

4. Upon completion of said basic training or biennial continuing education and the licensee meeting the other requirements as provided under sections 374.695 to 374.789, the director shall issue a two-year license for the bail bond agent or general bail bond agent for a fee not to exceed one hundred fifty dollars.

5. Nothing in sections [374.700 to 374.775] 374.695 to 374.789 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 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 education 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. **Individuals currently employed as bail bond agents and general bail bond agents shall not be required to meet the education requirements needed for licensure pursuant to this section.**

2. 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]. **The assignment shall become effective upon the applicant's violating any provision of sections [374.700 to 374.775] 374.695 to 374.789. The assignment required by this section shall be in the form[,] and executed in the manner[,] prescribed by the department. The director may require by regulation conditions by which additional assignments of assets of the general bail bond agent may occur when the circumstances of the business of the general bail bond agent warrants additional funds. However, such additional funds shall not exceed twenty-five thousand dollars.**

374.716. 1. Every bail bond agent shall account for each power of attorney assigned by the general bail bond agent on a weekly basis, if requested by the general bail bond agent in writing, and remit all sums collected and owed to the general bail bond agent pursuant to his or her written contract. The general bail bond agent shall maintain the weekly accounting and remittance records for a period of three years. Such records shall be subject to inspection by the director or his or her designee during regular business hours or at other reasonable times.

2. For every bond written in this state, the licensee shall provide to the principal a copy of the bail contract.

374.717. No insurer or licensee, court, or law enforcement officer shall:

(1) Pay a fee or rebate or give or promise anything of value in order to secure a settlement, compromise, remission, or reduction of the amount of any bail bond to:

(a) A jailer, police officer, peace officer, committing judge, or any other person who has power to arrest or to hold in custody any person; or

(b) Any public official or public employee;

(2) Pay a fee or rebate or give anything of value to an attorney in bail bond matters, except in defense of any action on a bond;

(3) Pay a fee or rebate or give anything of value to the principal or anyone on the principal's behalf;

(4) Accept anything of value from a principal except the premium and expenses incurred, provided that the licensee shall be permitted to accept collateral security of other indemnity from the principal in accordance with the provisions of section 374.719.

374.719. 1. A licensee may accept collateral security from the principal in a fiduciary capacity, which collateral shall be returned upon final termination of

liability on the bond. When a licensee accepts collateral, the licensee shall provide a prenumbered written receipt, which shall include a detailed account of the collateral received by the licensee. The acceptance of collateral security by a bail bond agent shall be reported to the general bail bond agent.

2. The collateral security required by the licensee shall be reasonable in relation to the amount of the bond.

3. If a failure to appear, absconding or attempting to abscond, or a judgment of forfeiture on the bond has occurred, the collateral security may be used to reimburse the licensee for any costs and expenses incurred associated with the forfeiture.

4. The general bail bond agent shall retain records of the acceptance, return, or judgment of forfeiture resulting in the use of the collateral to reimburse the licensee for a period of three years.

374.730. All licenses issued to bail bond agents and general bail bond agents under the provisions of sections 374.700 to 374.775 shall be renewed [annually] **biennially**, 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.

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 **or her** applying to the department, if the department is satisfied by proof adduced by the applicant that [his]:

(1) **The qualifications of the other state** 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] **374.695 to 374.789, provided that the other state licenses Missouri residents in the same manner; and**

(2) **The applicant has no suspensions or revocations of a license to engage in the bail bond or fugitive recovery business in any jurisdiction.**

2. Every applicant for a license pursuant to this section, upon showing the necessary qualifications as provided in this section, shall be required to pay the same fee as the fee required to be paid by resident applicants.

3. Within the limits provided in this section, the department may negotiate reciprocal compacts with licensing entities of other states for the admission of licensed bail bond agents from Missouri in other states.

4. All applicants applying for licenses in this state after the enactment of said act shall complete the education requirement as stated in section 374.710. If the bail bond agent or general bail bond agent has been licensed in another state and has a license in Missouri at the time said act becomes law, said individual shall not be required to complete the sixteen hours of initial basic training.

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 **or her** working time in the state of Missouri and shall file proof with the director of insurance as to his **or her** compliance, and accompany his **or her** application with the fees set by the [board] **director by regulation** 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] **374.695 to 374.789**. 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] **374.695 to 374.789**.

374.755. 1. The department may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any license required by sections [374.700 to 374.775] **374.695 to 374.789** or any person who has failed to renew or has surrendered his **or her** license for any one or any combination of the following causes:

(1) Use of any controlled substance, as defined in chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of the profession licensed under sections [374.700 to 374.775] **374.695 to 374.789**;

(2) [Having entered a plea of guilty or having been found guilty of a felony] **Final adjudication or a plea of guilty or nolo contendere within the past fifteen years in a criminal prosecution under any state or federal law for a felony or a crime involving moral turpitude whether or not a sentence is imposed, prior to issuance of license date**;

(3) Use of fraud, deception, misrepresentation or bribery in securing any license [issued pursuant to sections 374.700 to 374.775] or in obtaining permission to take any examination [given or] required pursuant to sections [374.700 to 374.775] **374.695 to 374.789**;

(4) Obtaining or attempting to obtain any compensation as a member of the profession licensed by sections [374.700 to 374.775] **374.695 to 374.789** by means of fraud, deception or misrepresentation;

(5) **Misappropriation of the premium, collateral, or other things of value given to a bail bond agent or a general bail bond agent for the taking of bail, incompetency, misconduct, gross negligence, fraud, or misrepresentation [or dishonesty] in the performance of the functions or duties of the profession licensed or regulated by sections [374.700 to 374.775] 374.695 to 374.789**;

(6) Violation of[, or assisting or enabling any other person to violate, any provision of sections 374.700 to 374.775 or of any lawful rule or regulation promulgated pursuant to sections 374.700 to 374.775] **any provision of or any obligation imposed by the laws of this state, department of insurance rules and regulations, or aiding or abetting other persons to violate such laws, orders, rules or regulations, or subpoenas;**

(7) Transferring a license or permitting another person to use a license of the licensee;

(8) Disciplinary action against the holder of a license or other right to practice the profession regulated by sections [374.700 to 374.775] **374.695 to 374.789** granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state;

(9) Being finally adjudged insane or incompetent by a court of competent jurisdiction;

(10) Assisting or enabling any person to practice or offer to practice the profession licensed or regulated by sections [374.700 to 374.775] **374.695 to 374.789** who is not currently licensed and eligible to practice [under] **pursuant to** sections [374.700 to 374.775] **374.695 to 374.789;**

(11) [Paying a fee or rebate, or giving or promising anything of value, to a jailer, policeman, peace officer, judge or any other person who has the power to arrest or to hold another person in custody, or to any public official or employee, in order to secure a settlement, compromise, remission or reduction of the amount of any bail bond or estreatment thereof] **Acting in the capacity of an attorney at a trial or hearing of a person for whom the attorney is acting as surety;**

(12) [Paying a fee or rebate, or giving anything of value to an attorney in bail bond matters, except in defense of any action on a bond;

(13) Paying a fee or rebate, or giving or promising anything of value, to the principal or anyone in his behalf;

(14) Participating in the capacity of an attorney at a trial or hearing of one on whose bond he is surety] **Failing to provide a copy of the bail contract, renumbered written receipt for acceptance of money, or other collateral for the taking of bail to the principal, if requested by any person who is a party to the bail contract, or any person providing funds or collateral for bail on the principal's behalf.**

2. After the filing of such complaint, the proceedings shall be conducted in accordance with the provisions of chapter 621, RSMo. Upon a finding by the administrative hearing commission that one or more of the causes stated in subsection 1 of this section have been met, the [department] **director** may [do any or all of the following:

(1) Censure the person involved;

(2) Place the person involved on probation on such terms and conditions as the department deems appropriate for a period not to exceed ten years;

(3) Suspend, for a period not to exceed three years, the license of the person involved;
(4) Revoke the license of the person involved] **suspend or revoke the license or enter into an agreement for a monetary or other penalty pursuant to section 374.280.**

3. In lieu of filing a complaint at the administrative hearing commission, the director and the bail bond agent or general bail bond agent may enter into an agreement for a monetary or other penalty pursuant to section 374.280.

4. In addition to any other remedies available, the director may issue a cease and desist order or may seek an injunction in a court of competent jurisdiction pursuant to the provisions of section 374.046 whenever it appears that any person is acting as a bail bond agent or general bail bond agent without a license or violating any other provisions of sections 374.695 to 374.789.

374.757. 1. Any agent licensed by sections [374.700 to 374.775] **374.695 to 374.789** who intends to apprehend any person in this state shall inform law enforcement authorities in the city or county in which such agent intends such apprehension, before attempting such apprehension. Such agent shall present to the local law enforcement authorities a certified copy of the bond and all other appropriate paperwork identifying the principal and the person to be apprehended. Local law enforcement may accompany the agent. Failure of any agent to whom this section applies to comply with the provisions of this section shall be a class A misdemeanor for the first violation and a class D felony for subsequent violations; and shall also be a violation of section 374.755 and may in addition be punished pursuant to that section.

2. The surety recovery agent shall inform the local law enforcement in the county or city where such agent is planning to enter a residence. Such agent shall have a certified copy of the bond and all appropriate paperwork to identify the principal. Local law enforcement, when notified, may accompany the surety recovery agent to that location to keep the peace if an active warrant is effective for a felony or misdemeanor. If a warrant is not active, the local law enforcement officers may accompany the surety recovery agent to such location. Failure to report to the local law enforcement agency is a class A misdemeanor. For any subsequent violations, failure to report to the local law enforcement agency is a class D felony.

374.759. 1. Any bail bond agent licensed in the state of Missouri shall have access to all publicly available court records of the defendant by available means to make a realistic assessment of defendant's probability of attending all court dates as set in his or her charges relating to bond request.

2. Any defendant shall have free access to any bail bond agent via phone so long as the call is made to a local phone number. All other numbers shall be available as a collect call to any non-local number.

3. Bail bond agents shall have face-to-face access to any defendant asking for a bond to be posted on his or her behalf prior to issuance of such power of attorney on defendant's behalf.

4. All Missouri licensed bail bond agents or licensed general agents shall be qualified, without further requirements, in all jurisdictions of this state.

5. If the court orders any bond for the defendant, cash or otherwise, surety may issue said amount with his or her surety being accepted the same as cash.

374.763. 1. If any final judgment ordering forfeiture of a defendant's bond is not paid within [the] a **six-month** period of time [ordered by the court], the court shall **extend the judgment date or** notify the department of the failure to satisfy such judgment. The director shall draw upon the assets of the surety, remit the sum to the court, and obtain a receipt of such sum from the court. The director may take action as provided by section 374.755 [or 374.430], regarding the license of the surety and any bail bond agents writing upon the surety's liability.

2. The department shall furnish to the presiding judge of each circuit court of this state, on at least a monthly basis, a list of all duly licensed and qualified bail bond agents and general bail bond agents whose licenses are not subject to pending suspension or revocation proceedings, and who are not subject to unsatisfied bond forfeiture judgments. In lieu of such list, the department may provide this information to each presiding judge in an electronic format.

3. All duly licensed and qualified bail bond agents and general bail bond agents shall be qualified, without further requirement, to write bail upon a surety's liability in all courts of this state.

374.764. 1. The director shall examine and inquire into all alleged violations or complaints filed with the department of insurance of the bail bond law of the state, and inquire into and investigate the bail bond business transacted in the state by any bail bond agent, general bail bond agent, or surety recovery agent.

2. The director or any of his or her duly appointed agents may compel the attendance before him or her, and may examine, under oath, the directors, officers, bail bond agents, general bail bond agents, surety recovery agents, employees, or any other person in reference to the condition, affairs, management of the bail bond or surety recovery business, or any matters relating thereto. He or she may administer oaths or affirmations and shall have power to summon and compel the attendance of witnesses and to require and compel the production of records, books, papers, contracts, or other documents if necessary.

3. The director may make and conduct the investigation in person or the director may appoint one or more persons to make and conduct the investigation. If made by a person other than the director, the person duly appointed by the

director shall have the same powers as granted to the director pursuant to this section. A certificate of appointment under the official seal of the director shall be sufficient authority and evidence thereof for the person to act. For the purpose of making the investigations, or having the same made, the director may employ the necessary clerical, actuarial, and other assistance.

374.783. 1. No person shall hold himself or herself out as being a surety recovery agent in this state, unless such person is licensed in accordance with the provisions of sections 374.783 to 374.789. Licensed bail bond agents and general bail bond agents may perform fugitive recovery without being licensed as a surety agent.

2. The director shall have authority to license all surety recovery agents in this state. The director shall have control and supervision over the licensing of such agents and the enforcement of the terms and provisions of sections 374.783 to 374.789.

3. The director shall have the power to:

(1) Set and determine the amount of the fees authorized and required pursuant to sections 374.783 to 374.789. The fees shall be set at a level sufficient to produce revenue which shall not substantially exceed the cost and expense of administering sections 374.783 to 374.789. However, such fees shall not exceed one hundred fifty dollars for a two-year license; and

(2) Determine the sufficient qualifications of applicants for a license.

4. The director shall license for a period of two years all surety recovery agents in this state who meet the requirements of sections 374.783 to 374.789.

374.784. 1. Applications for examination and licensure as a surety recovery agent shall be submitted on forms prescribed by the department and shall contain such information as the department requires, along with a copy of the front and back of a photographic identification card.

2. Each application shall be accompanied by proof satisfactory to the director that the applicant is a citizen of the United States, is at least twenty-one years of age, and has a high school diploma or a general educational development certificate (GED). An applicant shall furnish evidence of such person's qualifications by completing an approved surety recovery agent course with at least sixteen hours of initial minimum training. The director shall determine which institutions, organizations, associations, and individuals shall be eligible to provide said training. Said instructions and fees associated therewith shall be identical or similar to those prescribed in section 374.710 for bail bond agents and general bail bond agents.

3. In addition to said sixteen hours of initial minimum training, licensees

shall be required to receive eight hours of biennial continuing education of which said instructions and fees shall be identical or similar to those prescribed in section 374.710 for bail bond agents and general bail bond agents.

4. Applicants for surety recovery agents licensing shall be exempt from said requirements of the sixteen hours of initial minimum training if applicants provide proof of prior training as a law enforcement officer with at least two years of such service.

5. The director may refuse to issue any license pursuant to sections 374.783 to 374.789, for any one or any combination of causes stated in section 374.787. The director shall notify the applicant in writing of the reason or reasons for refusal and shall advise the applicant of the right to file a complaint with the administrative hearing commission to appeal the refusal as provided by chapter 621, RSMo.

374.785. 1. The director shall issue a license for a period of two years to any surety recovery agent who is licensed in another jurisdiction and who:

(1) Has no violations, suspensions, or revocations of a license to engage in fugitive recovery in any jurisdiction; and

(2) Is licensed in a jurisdiction whose requirements are substantially equal to or greater than the requirements for a surety recovery agent license in Missouri at the time the applicant applies for a license.

2. Any surety recovery agent who is licensed in another state shall also be subject to the same training requirements as in-state surety recovery agents prescribe to under section 374.784.

3. For the purpose of surrender of the defendant, a surety recovery agent may apprehend the defendant anywhere within the state of Missouri before or after the forfeiture of the undertaking without personal liability for false imprisonment or may empower any surety recovery agent to make apprehension by providing written authority endorsed on a certified copy of the undertaking and paying the lawful fees.

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

374.786. 1. Every person licensed pursuant to sections 374.783 to 374.789 shall, before the license renewal date, apply to the director for renewal for the ensuing licensing period. The application shall be made on a form furnished to the

applicant and shall state the applicant's full name, the applicant's business address, the address at which the applicant resides, the date the applicant first received a license, and the applicant's surety recovery agent identification number, if any.

2. A renewal form shall be mailed to each person licensed in this state at the person's last known address. The failure to mail the renewal form or the failure of a person to receive it does not relieve any person of the duty to be licensed and to pay the license fee required nor exempt such person from the penalties provided for failure to be licensed.

3. Each applicant for renewal shall accompany such application with a renewal fee to be paid to the department for the licensing period for which renewal is sought.

4. The director may refuse to renew any license required pursuant to sections 374.783 to 374.789, for any one or any combination of causes stated in section 374.787. The director shall notify the applicant in writing of the reasons for refusal to renew and shall advise the applicant of his or her right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo.

374.787. 1. The director may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any surety recovery agent or any person who has failed to renew or has surrendered his or her license for any one or any combination of the following causes:

(1) Violation of any provisions of, or any obligations imposed by, the laws of this state, the department of insurance rules and regulations, or aiding or abetting other persons to violate such laws, orders, rules, or regulations;

(2) Final adjudication or a plea of guilty or nolo contendere in a criminal prosecution under state or federal law for a felony or a crime involving moral turpitude, whether or not a sentence is imposed;

(3) Using fraud, deception, misrepresentation, or bribery in securing a license or in obtaining permission to take any examination required by sections 374.783 to 374.789;

(4) Obtaining or attempting to obtain any compensation as a surety recovery agent by means of fraud, deception, or misrepresentation;

(5) Acting as a surety recovery agent or aiding or abetting another in acting as a surety recovery agent without a license;

(6) Incompetence, misconduct, gross negligence, fraud, or misrepresentation in the performance of the functions or duties of a surety recovery agent;

(7) Having a revoked or suspended license issued by another state.

2. After the filing of the complaint, the proceedings shall be conducted in accordance with the provision of chapter 621, RSMo. Upon a finding by the administrative hearing commission that one or more of the causes stated in subsection 1 of this section have been met, the director may suspend or revoke the license or enter into an agreement for a monetary or other penalty pursuant to section 374.280.

3. In lieu of filing a complaint with the administrative hearing commission, the director and the surety recovery agent may enter into an agreement for a monetary or other penalty pursuant to section 374.280.

4. In addition to any other remedies available, the director may issue a cease and desist order or may seek an injunction in a court of law pursuant to section 374.046 whenever it appears that any person is acting as a surety recovery agent without a license.

374.788. 1. A bail bond agent having probable grounds to believe a subject free on his or her bond has failed to appear as directed by a court, has breached the terms of the subject's surety agreement, or has taken a substantial step toward absconding, may utilize all lawful means to apprehend the subject. To surrender a subject to a court, a licensed bail bond or surety recovery agent having probable grounds to believe the subject is free on his or her bond may:

(1) Detain the subject in a lawful manner, for a reasonable time, provided that in the event travel from another state is involved, the detention period may include reasonable travel time not to exceed seventy-two hours;

(2) Transport a subject in a lawful manner from state to state and county to county to a place of authorized surrender; and

(3) Enter upon private or public property in a lawful manner to execute apprehension of a subject.

2. A surety recovery agent who apprehends a subject pursuant to the provisions of subsection 1 of this section shall surrender custody of the subject to the court of jurisdiction.

3. When a surety recovery agent is in the process of performing fugitive recovery, a photographic identification card shall be prominently displayed on his or her person.

374.789. 1. A person is guilty of a class D felony if he or she does not hold a valid surety recovery agent license or a bail bond license and commits any of the following acts:

(1) Holds himself or herself out to be a licensed surety recovery agent within this state;

(2) Claims that he or she can render surety recovery agent services; or

(3) Engages in fugitive recovery in this state.

2. Any person who engages in fugitive recovery in this state and wrongfully causes damage to any person or property, including, but not limited to, unlawful apprehension, unlawful detainment, or assault, shall be liable for such damages and may be liable for punitive damages.

544.640. **1. If, without sufficient cause or excuse, the defendant fails to appear either in person or by legal counsel for trial or judgment, or upon any other occasion when his or her presence in court may be lawfully required, according to the condition of his or her recognizance, the court must direct the fact to be entered upon its minutes, and thereupon [the recognizance is forfeited, and the same shall be proceeded upon by scire facias to final judgment and execution thereon, although the defendant may be afterward arrested on the original charge, unless remitted by the court for cause shown] at the end of the court day the court may forfeit the bond and order an execution hearing not sooner than ninety days but not later than one hundred eighty days after the date the person failed to appear. Notice of the execution hearing shall be served within ten days of such failure to appear by certified copy of bond to the surety's office. Service shall be completed upon mailing of such certified notice.**

2. If at the execution hearing it is determined that the judgment should be entered, the court shall so order and a writ of scire facias shall be filed in the office of the clerk of the court where such judgment is entered.

3. The court must issue a warrant for the defendant for failure to appear.

4. If the bail bond agent provides proof of the incarceration of the defendant who failed to appear, or provides proof to the court that it is physically impossible for the defendant bail bond agent or surety to satisfy the conditions of the bond through no fault of the bail bond agent or surety, the bail bond agent or surety shall be released from liability and all money and property deposited with the court shall be returned within ten days.

5. In cases in which subsection 2 of this section is not applicable, on application of the surety filed within two years of the payment of final judgment, the court shall order remission of one hundred percent of the bond amount to the surety under the following conditions:

(1) Provided the bond forfeiture has been paid, within one year after final judgment, such court shall direct remission of one hundred percent of the bond amount remitted to the surety if the surety locates the defendant in custody. Within thirty days of a two-year period following the final judgment, upon proof of incarceration, the surety shall be entitled to a refund of fifty percent of the bond amount; and

(2) Up to two years after final judgment, if the surety surrenders the

principal to an authorized officer, or such surrender has been denied by an authorized officer, or the surety locates the defendant in custody in another jurisdiction and it is shown to the court by presentation of competent evidence from the surety or the holding institution that such surrender has been made or denied or that the defendant is in custody in another jurisdiction or that such surrender has been made, the court shall direct that the judgment be marked satisfied and that the writ of execution, scire facias, be canceled.

The court shall notify the surety's main office by certified mail within ten days' notification of the defendant's incarceration.

6. A defendant shall be surrendered without the return of premium for the bond if the indemnitor attests in writing the desire to be released from the bond or if the surety or the bail bond agent discovers that the defendant is guilty of:

- (1) Failing to appear in court;
- (2) Changing his or her address without notifying the bail bond agent or surety in writing;
- (3) Concealing himself or herself;
- (4) Leaving the jurisdiction of the court without the written permission of his or her bail bond agent or surety or court;
- (5) Violating his or her contract with the bail bond agent or surety in a way that may be harmful to the bail bond agent or the surety or violating his or her obligation to the court;
- (6) Being arrested for a crime other than a traffic violation where the penalty is an infraction or a misdemeanor;
- (7) Failing to pay any fee due to the bail bond agent or surety;
- (8) Providing false information to the bail bond agent or surety; or
- (9) Knowingly or unknowingly violating any other condition of the bail or bail bond contract.

7. Upon forfeiture of the bond, the court may order that the defendant's driver's license be suspended until such time as the defendant has satisfied the forfeiture.

8. The provisions of this section shall apply to all bail bonds.

9. As used in this section, the term "bail bond" means the only form of security to ensure subsequent court appearances accepted by the courts in this state except for recognizance for people who are located and who have not previously pleaded guilty to or been found guilty of failure to appear.

[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 the provisions of sections 374.700 to 374.775 may continue to act in such

capacity without being licensed under sections 374.700 to 374.775 for a period of twelve months from September 28, 1983.]

[544.650. Whenever any bail bond or recognizance has been given or entered into in any criminal proceedings, conditioned for the appearance of any person charged with, indicted for or convicted of any criminal offense, or for any other purpose, and the conditions thereof shall become broken or the same shall be forfeited, it shall be lawful and sufficient to serve the writ of scire facias or other writ or process which may be issued in such proceeding, either by delivering a duly certified copy of such writ or process to the person therein named, or by leaving such duly certified copy of such writ or process at the usual place of abode of the person therein named, with a member of his family over the age of fifteen years.]

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Unofficial

Bill

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