

Conference Engrossed

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

HOUSE BILL 2433

AN ACT

AMENDING SECTIONS 13-3969, 13-3974, 20-340.01 AND 20-340.03, ARIZONA REVISED
STATUTES; RELATING TO BAIL.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-3969, Arizona Revised Statutes, is amended to
3 read:

4 13-3969. Bail bond agent lists: prohibition: rotation:
5 acceptance of bonds: unlawful solicitation:
6 classification

7 A. The sheriff or keeper of ~~the~~ A COUNTY OR CITY jail shall provide to
8 a person charged with a bailable offense in his custody a list containing the
9 names and telephone numbers of those persons authorized to post bail bonds in
10 the county. Persons authorized to post bail bonds in the county may be
11 listed under their own name or a trade name if the trade name is registered
12 with the secretary of state. The list shall be updated ~~annually~~ MONTHLY.
13 EACH MONTH THE CLERK OF THE COURT SHALL TRANSMIT THE LIST ELECTRONICALLY TO
14 COUNTY AND CITY JAILS AND SHALL ROTATE THE ORDER OF THE NAMES AND TELEPHONE
15 NUMBERS ON THE LIST.

16 B. The sheriff or keeper of ~~the~~ A COUNTY OR CITY jail shall not
17 recommend any ~~authorized~~ bail bond agent, PRIVATE PERSON OR PRIVATE COMPANY
18 to a person charged with a bailable offense in the sheriff's or keeper's
19 custody ~~and shall rotate quarterly the order of the names and telephone~~
20 ~~numbers of the authorized bail bond agents listed.~~

21 C. The sheriff or keeper of ~~the~~ A COUNTY OR CITY jail in the county OR
22 CITY in which criminal charges are filed or in which the person charged is
23 jailed shall accept the bond from any person.

24 D. THE SHERIFF OR KEEPER OF A COUNTY OR CITY JAIL SHALL ACCEPT THE
25 SECURED APPEARANCE BOND FROM AN EMPLOYEE OF A BAIL BOND AGENT IF THE EMPLOYEE
26 HAS PROPER BAIL AGENCY IDENTIFICATION.

27 E. IF BAIL IS AUTHORIZED BY THE COURT, THE SHERIFF OR KEEPER OF A
28 COUNTY OR CITY JAIL SHALL DIRECTLY ACCEPT SECURED APPEARANCE BONDS, MONEY
29 ORDERS, CASHIER'S CHECKS OR CASH IN FIFTY DOLLAR INCREMENTS OR LESS FOR THE
30 RELEASE OF PERSONS IN THE CUSTODY OF THE SHERIFF OR KEEPER.

31 F. EXCEPT PURSUANT TO SUBSECTION A OF THIS SECTION, A PRIVATE COMPANY
32 SHALL NOT SOLICIT BAIL BOND BUSINESS INSIDE A COURT BUILDING OR A COUNTY OR
33 CITY JAIL. A PERSON WHO VIOLATES THIS SUBSECTION IS GUILTY OF A CLASS 3
34 MISDEMEANOR. FOR THE PURPOSES OF THIS SUBSECTION, "SOLICIT" INCLUDES HANDING
35 OUT BUSINESS CARDS OR ANY PRINTED MATERIAL RELATED TO BAIL BONDS, VERBALLY
36 ASKING A PERSON IF THE PERSON NEEDS A BAIL BOND AND RECRUITING ANOTHER PERSON
37 TO SOLICIT BAIL BOND BUSINESS. A COUNTY OR CITY MAY RESTRICT THE LOCATION
38 IMMEDIATELY OUTSIDE A COURT BUILDING OR COUNTY OR CITY JAIL WHERE A PERSON
39 MAY SOLICIT BAIL BOND BUSINESS.

40 Sec. 2. Section 13-3974, Arizona Revised Statutes, is amended to read:

41 13-3974. Exoneration of appearance bond

42 A. A surety ~~may~~ SHALL be relieved from liability on ~~an~~ THE appearance
43 bond ON WHICH THE DEFENDANT IS RELEASED AT THE TIME THE DEFENDANT IS
44 SURRENDERED if the surety surrenders the defendant ON THAT APPEARANCE BOND
45 into the custody of the sheriff of the county in which the prosecution is

1 pending ON OR BEFORE THE DAY AND TIME THE DEFENDANT IS ORDERED TO APPEAR IN
2 COURT and the sheriff reports the surrender to the court.

3 B. EXCEPT AS PROVIDED IN SUBSECTION C OF THIS SECTION, ON APPROVAL OF
4 THE COURT, A SURETY MAY BE RELIEVED FROM LIABILITY ON THE APPEARANCE BOND ON
5 WHICH THE DEFENDANT IS RELEASED AT THE TIME THE DEFENDANT IS SURRENDERED IF
6 THE SURETY SURRENDERS THE DEFENDANT INTO THE CUSTODY OF THE SHERIFF OF THE
7 COUNTY IN WHICH THE PROSECUTION IS PENDING WITHIN TWENTY-ONE DAYS AFTER THE
8 DEFENDANT'S FAILURE TO APPEAR AND THE SHERIFF REPORTS THE SURRENDER TO THE
9 COURT.

10 C. IF THE SURETY SURRENDERS THE DEFENDANT TO THE SHERIFF AS PROVIDED
11 IN SUBSECTION B OF THIS SECTION, THE COURT MAY ORDER FORFEITURE OF UP TO TEN
12 PER CENT OF THE APPEARANCE BOND OR ONE THOUSAND DOLLARS, WHICHEVER IS
13 GREATER.

14 Sec. 3. Section 20-340.01, Arizona Revised Statutes, is amended to
15 read:

16 20-340.01. Bail bond agents; licensure; business entities;
17 place of business; receipt; maintenance of records

18 A. A person shall not act as a bail bond agent in this state unless
19 the person is licensed by the director in accordance with this article. An
20 applicant for a bail bond agent license shall submit an affidavit attesting
21 to the applicant's residency in this state for at least one year immediately
22 preceding the date of application.

23 B. Each applicant for A bail bond agent license shall submit a full
24 set of fingerprints to the department of insurance for the purpose of
25 obtaining a state and federal criminal records check pursuant to section
26 41-1750 and Public Law 92-544. The department of public safety may exchange
27 this fingerprint data with the federal bureau of investigation. The
28 department of insurance shall not issue a license until it receives the state
29 and federal criminal history records check and the applicant is qualified for
30 licensure.

31 C. THE DIRECTOR MAY DENY, SUSPEND FOR NOT MORE THAN TWELVE MONTHS,
32 REVOKE OR REFUSE TO RENEW A BAIL BOND AGENT'S LICENSE FOR ANY ONE OR MORE OF
33 THE FOLLOWING CAUSES:

- 34 1. HAVING BEEN CONVICTED IN ANY JURISDICTION OF THEFT.
35 2. HAVING BEEN CONVICTED IN ANY JURISDICTION OF ANY CRIME INVOLVING
36 THE CARRYING, USE OR POSSESSION OF A DEADLY WEAPON OR DANGEROUS INSTRUMENT.
37 3. VIOLATING THIS ARTICLE OR SECTION 20-295.

38 ~~C.~~ D. The director shall not license a ~~resident~~ business entity as a
39 bail bond agent unless each owner and shareholder is individually licensed as
40 a bail bond agent.

41 ~~D.~~ E. A person who is licensed as a bail bond agent in this state is
42 not authorized in this state to transact civil bonds in connection with
43 contracts, administrative proceedings or other noncriminal matters on behalf
44 of a surety insurer unless the bail bond agent is also licensed as a property
45 and casualty producer in this state.

1 ~~E.~~ F. Each bail bond agent shall have and maintain a place of
2 business in this state that is accessible to the public and where the bail
3 bond agent principally conducts transactions under the agent's license.

4 ~~F.~~ G. As a minimum requirement for permanent office records, each
5 bail bond agent and general lines agent who is engaged in the bail bond
6 business shall maintain a daily bond register that is the original and
7 permanent record of all bonds or undertakings executed by the licensee and
8 that states the:

- 9 1. Number of the power of attorney form.
- 10 2. Date the bond was executed.
- 11 3. Name of the principal.
- 12 4. Amount of the bond.
- 13 5. Premium charged.
- 14 6. Premium reported to the surety company.
- 15 7. Security or collateral received.
- 16 8. Date the security or collateral was received and the date released.
- 17 9. Indemnity agreements.
- 18 10. Disposition of the bond.
- 19 11. Date of disposition.

20 ~~G.~~ H. Each bail bond agent and general lines agent who is engaged in
21 the bail bond business and who accepts monies or any other consideration for
22 any bail bond undertaking shall for each payment received give to the person
23 paying the monies or giving the consideration a prenumbered receipt as
24 evidence of payment. The receipt must state the date, the name of the
25 principal, a description of the consideration or amount of monies received
26 and the purpose for which received, the number of the power of attorney form
27 attached to the bond, the penal sum of the bond, the name of the person
28 making the payment or giving the consideration and the terms under which the
29 monies or other consideration shall be released. Each bail bond agent shall
30 retain a duplicate copy of each receipt issued as part of the agent's
31 records.

32 ~~H.~~ I. The bail bond agent shall keep at the agent's place of business
33 the usual and customary records pertaining to transactions made under the
34 license. The licensee shall keep all the records as to any particular
35 transaction available and open to the inspection of the director at any
36 business time during the three years immediately after the date of completion
37 of the transaction.

38 ~~I.~~ J. The director may examine the business practices, books and
39 records of any bail bond agent as often as the director deems appropriate.
40 The bail bond agent shall pay the costs incurred for the examination.

41 Sec. 4. Section 20-340.03, Arizona Revised Statutes, is amended to
42 read:

43 20-340.03. Bail bond agent prohibitions

44 A. A bail bond agent shall not:

1 1. Suggest or advise the employment of or name for employment any
2 particular attorney to represent the agent's principal.

3 2. Solicit business in or around any place where prisoners are
4 confined or in or around any court.

5 3. Receive or collect for an attorney any monies or other items of
6 value for any attorney fee, cost or other purpose on behalf of an arrestee,
7 unless a receipt is given.

8 4. For any purpose, directly or indirectly, enter into an arrangement
9 of any kind or have an understanding with any person to inform or notify any
10 bail bond agent directly or indirectly of any of the following:

11 (a) The existence of a criminal complaint.

12 (b) The fact of an arrest.

13 (c) The fact that an arrest of any person is pending or contemplated.

14 (d) Any information pertaining to matters described in this paragraph
15 or to the persons involved.

16 5. Participate in the capacity of an attorney at a trial or hearing of
17 a person on whose bond the bail bond agent is the surety.

18 6. Accept anything of value from a principal except the premium and
19 expenses. The bail bond agent may accept collateral security or other
20 indemnity from the principal or on behalf of the principal that the bail bond
21 agent shall return on final termination of liability on the bond unless the
22 collateral has been forfeited because the defendant did not appear in
23 court. The collateral security or other indemnity required by the bail bond
24 agent must be reasonable in relation to the amount of the bond.

25 7. Give, authorize, sign or countersign in blank any power of attorney
26 to bonds unless the authorized person is a licensed bail bond agent directly
27 employed by the bail bond agent giving the power of attorney.

28 8. Advertise as or claim to be a surety company.

29 9. Employ or assist in the employment of: ~~any person who has been~~
30 ~~convicted in any jurisdiction of theft or of any felony or of any crime~~
31 ~~involving carrying or the possession of a deadly weapon or dangerous~~
32 ~~instrument. This paragraph does not apply to a person whose felony~~
33 ~~conviction has been set aside or whose civil rights have been restored~~
34 ~~because of a felony conviction, except for a conviction of theft or of any~~
35 ~~crime involving carrying or the possession of a deadly weapon or dangerous~~
36 ~~instrument.~~

37 (a) ANY PERSON WHO HAS NOT COMPLIED WITH SECTION 20-340.01,
38 SUBSECTION A OR SECTION 20-340.04.

39 (b) ANY PERSON AS A BAIL BOND AGENT WHOSE BAIL AGENT LICENSE IS
40 REVOKED OR SUSPENDED.

41 (c) ANY PERSON AS A BAIL RECOVERY AGENT WHOSE BAIL RECOVERY AGENT
42 REGISTRATION IS REVOKED OR SUSPENDED.

43 (d) ANY PERSON WHO IS NOT A BAIL BOND AGENT OR A BAIL RECOVERY AGENT
44 AND HAS BEEN CONVICTED IN ANY JURISDICTION OF THEFT OR OF ANY FELONY OR OF
45 ANY CRIME INVOLVING CARRYING OR THE POSSESSION OF A DEADLY WEAPON OR

1 DANGEROUS INSTRUMENT. THIS SUBDIVISION DOES NOT APPLY TO A PERSON WHOSE
2 FELONY CONVICTION HAS BEEN SET ASIDE OR WHOSE CIVIL RIGHTS HAVE BEEN RESTORED
3 BECAUSE OF A FELONY CONVICTION.

4 B. For the purposes of subsection A, paragraph 9 OF THIS SECTION,
5 "employment" means working for a salary, a commission or under contract or
6 owning, operating or controlling any business or agency that solicits,
7 services or assists in any way in dealing in bail bonds.

8 C. Law enforcement, adjudication and prosecution officials and the
9 officials' employees, attorneys-at-law, officials authorized to admit to bail
10 and state and county officers shall not be bail bond agents and shall not
11 directly or indirectly receive any benefits from the execution of any bail
12 bond. This section does not prohibit a bail bond agent from hiring counsel
13 or asking assistance of a law enforcement officer.

14 D. In any bail transaction or in connection with any bail transaction,
15 a bail bond agent shall not directly or indirectly charge or collect monies
16 or other valuable consideration from any person except for the following
17 purposes:

18 1. To pay the premium at the rates that are established by the surety
19 insurer and that are approved by the director.

20 2. To provide collateral.

21 3. To be reimbursed for actual and reasonable expenses incurred in
22 connection with the individual bail transaction.