

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 641
PROPOSED COMMITTEE SUBSTITUTE H641-PCS10361-SA-45

Short Title: Amend Bail Bondsmen Statutes.

(Public)

Sponsors:

Referred to:

April 14, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO REVISE THE STATUTES GOVERNING BAIL BONDSMEN BY
3 CLARIFYING CERTAIN DEFINITIONS, BY CLARIFYING THE STATUTES
4 GOVERNING RETURN OF PREMIUM, ARREST ORDERS, AND APPOINTMENT OF
5 SURETY BONDSMEN, BY BROADENING THE ENTITIES WHO MAY PROVIDE
6 CONTINUING EDUCATION, AND BY MAKING VARIOUS OTHER CHANGES TO
7 THE BAIL BONDSMEN LAWS.

8 The General Assembly of North Carolina enacts:

9 SECTION 1. G.S. 58-71-1 reads as rewritten:

10 "§ 58-71-1. Definitions.

11 The following definitions apply in this Article:

12 ...

13 (1a) Address. – Any dwelling, home, building, lodging, or "address of record" as
14 defined in G.S. 15A-531(2)a. where a principal may occupy or take up
15 residence.

16 (1b) Approved provider. – An entity who has been issued a Certificate of
17 Authority by the Commissioner to provide either bail bond continuing
18 education or prelicensing courses in this State in accordance with
19 G.S. 58-71-72.

20 ...

21 (3a) Cash deposit. – The posting of coin, currency, or valid appearance bond by
22 an accommodation bondsman, an insurer, a professional bondsman, or a
23 runner in order to effect pretrial release for a defendant for which a release
24 order indicates a cash deposit or United States currency.

25 ...

26 (6a) Personal identification. – Date of birth, Social Security number, drivers
27 license number, alien registration number, or any other similar means of
28 distinguishing between individuals.

29"

30 SECTION 2. G.S. 58-71-20 reads as rewritten:

31 "§ 58-71-20. Surrender of defendant by surety; when premium need not be returned.

32 At any time before there has been a breach of the undertaking in any type of bail or fine and
33 cash bond the surety may surrender the defendant to the sheriff of the county in which the
34 defendant is bonded to appear or to the sheriff where the defendant was bonded; in such case
35 the full premium shall be returned within 72 hours after the surrender. The defendant may be
36 surrendered without the return of premium for the bond if all indemnitors and payers of bail



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1 bond premium on the defendant's bond present a notarized written request, with notice, to the
2 surety or surety's agent to terminate the bond and the indemnitor's liability, and the surety then
3 surrenders the defendant, or if the defendant does any of the following:

- 4 (1) Willfully fails to pay the premium to the surety or willfully fails to make a
5 premium payment under the agreement specified in G.S. 58-71-167.
- 6 (2) Changes his or her address without notifying the surety before the address
7 change.
- 8 (3) Physically hides from the surety. This includes noncompliance with any
9 signed, written agreement between the defendant and the surety outlining
10 requirements for communications with the surety.
- 11 (4) Leaves the State without the permission of the surety.
- 12 (5) Violates any order of the court.
- 13 (6) Fails to disclose information or provides false information regarding any
14 failure to appear in court, any previous felony convictions within the past 10
15 years, or any charges pending in any State or federal court.
- 16 (7) Knowingly provides the surety with incorrect personal identification, or uses
17 a false name or alias."

18 **SECTION 3.** G.S. 58-71-30 reads as rewritten:

19 **"§ 58-71-30. Arrest of defendant for purpose of surrender.**

20 For the purpose of surrendering the defendant, the surety may arrest him before the
21 forfeiture of the undertaking, or by his written authority endorsed on a certified copy of the
22 undertaking, may request any judicial officer to order arrest of the defendant. Upon receipt of
23 the request by surety or the surety's agent and the certified copy of the undertaking, the judicial
24 officer shall order arrest of the defendant."

25 **SECTION 4.** G.S. 58-71-71 reads as rewritten:

26 **"§ 58-71-71. Examination; educational requirements; penalties.**

27 (a) In order to be eligible to take the examination required to be licensed as a runner or
28 bail bondsman under G.S. 58-71-70, each person shall complete at least 12 hours of education
29 as provided by ~~the North Carolina Bail Agents Association~~ an approved provider in subjects
30 pertinent to the duties and responsibilities of a runner or bail bondsman, including all laws and
31 regulations related to being a runner or bail bondsman.

32 (b) Each year every licensee shall complete at least three hours of continuing education
33 as provided by ~~the North Carolina Bail Agents Association~~ an approved provider in subjects
34 related to the duties and responsibilities of a runner or bail bondsman before renewal of the
35 license. This continuing education shall not include a written or oral examination. A person
36 who receives his first license on or after January 1 of any year does not have to comply with
37 this subsection until the period between his first and second license renewals.

38 ...

39 (d) Educational courses offered by ~~the North Carolina Bail Agents Association~~ approved
40 providers under this section must be approved by the Commissioner before they may be
41 offered. Before approving a course, the Commissioner must be satisfied that the course will
42 enhance the professional competence and professional responsibility of bail bondsmen and
43 runners. ~~The North Carolina Bail Agents Association~~ Approved providers shall not offer,
44 sponsor, or conduct any course under this section unless the Commissioner has given
45 authorization to do so.

46"

47 **SECTION 5.** G.S. 58-71-141 reads as rewritten:

48 **"§ 58-71-141. Appointment of bail bondsmen; affidavit required.**

49 (a) Before receiving an appointment, a surety bondsman shall submit to the
50 Commissioner an affidavit, signed under oath, by the surety bondsman and by any former
51 insurer, stating that the surety bondsman does not owe any premium or unsatisfied judgment to

1 any insurer and that the bondsman agrees to discharge all outstanding forfeitures and judgments
2 on bonds previously written. The affidavit shall be in a form prescribed by the Commissioner
3 and shall be submitted by the surety bondsman to the former insurer. If the surety bondsman
4 does not satisfy or discharge all forfeitures or judgments, the former insurer shall submit a
5 notice, with supporting documents, to the appointing insurer, the surety bondsman, and the
6 Commissioner, which states, under oath, that the surety bondsman has failed to satisfy, in a
7 timely manner, the forfeitures and judgments on bonds written by the surety bondsman and that
8 the former insurer has satisfied the forfeiture or judgment from its own funds. ~~The~~If the surety
9 bondsman does not owe any premium or unsatisfied judgments, a former insurer must release
10 the bondsman by certifying that status to the Commissioner via e-mail, fax, or mail and
11 providing a corresponding notice of release to the bondsman within three days of receipt of the
12 surety bondsman's affidavit. Otherwise, the former insurer shall submit the notice and
13 supporting documents—documents, including evidence of owed premium or unsatisfied
14 judgments, to the appointing insurer, the surety bondsman, and the Commissioner within ~~30~~10
15 days after the former insurer receives the affidavit from the surety bondsman. Upon receipt of
16 the notice and supporting documents, the appointing insurer shall immediately cancel the surety
17 bondsman's appointment. The surety bondsman may be reappointed only upon certification by
18 the former insurer that all forfeitures and judgments on bonds written by the surety bondsman
19 have been discharged. The appointing insurer or surety bondsman may, within 10 days after
20 receiving the notice and supporting documents from the former insurer, appeal to the
21 Commissioner. For the purposes of this section, owed premium and unsatisfied judgments only
22 pertain to insurers.

23"

24 **SECTION 6.** G.S. 15A-531(4) reads as rewritten:

25 "(4) "Bail bond" means an undertaking by the defendant to appear in court as
26 required upon penalty of forfeiting bail to the State in a stated amount. Bail
27 bonds include an unsecured appearance bond, an appearance bond secured
28 by a cash deposit of the full amount of the bond, an appearance bond secured
29 by a mortgage under G.S. 58-74-5, and an appearance bond secured by at
30 least one solvent surety. A bail bond signed by any surety, as defined in
31 G.S. 15A-531(8)a. and b., is considered the same as a cash deposit or United
32 States currency for all purposes in this Article. Cash bonds set in child
33 support contempt proceedings shall not be satisfied in any manner other than
34 the deposit of cash."

35 **SECTION 7.** This act becomes effective October 1, 2015.