

Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 12-0307.02 Jery Payne x2157

HOUSE BILL 12-1266

HOUSE SPONSORSHIP

Sonnenberg, Gardner B.

SENATE SPONSORSHIP

Morse,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING THE CONTINUATION OF THE LICENSING OF PERSONS WHO
102 FURNISH BAIL FOR COMPENSATION.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Sunset Process - House Judiciary Committee. The bill continues the regulation of bail bonding agents until September 1, 2017. The daily bond register requirement is replaced with a requirement that the information be kept in a case file and clarifies that the requirement applies to cash bonding agents and professional cash bail agents. A

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

prohibition against licensing firms is repealed. Bail-related transactions are required to be made on forms approved by the division of insurance.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 10-1-103, **amend** (6)
3 (b) (I) (A) as follows:

4 **10-1-103. Division of insurance - subject to termination -**
5 **repeal of functions.** (6) (b) (I) (A) The functions of the division of
6 insurance related to the licensing of bail bonding agents are repealed,
7 effective ~~July 1, 2012, pursuant to~~ SEPTEMBER 1, 2017, UNDER the
8 provisions of this section and section 12-7-112, C.R.S.

9 **SECTION 2.** In Colorado Revised Statutes, 10-2-407, **amend** (1)
10 (f) as follows:

11 **10-2-407. License - definitions of lines of insurance - authority.**
12 (1) Unless denied licensure pursuant to section 10-2-801 or 12-7-106,
13 C.R.S., a person who has met the requirements of sections 10-2-401,
14 10-2-404, 12-7-102, or 12-7-103, C.R.S., may be issued an insurance
15 producer license. An insurance producer may receive qualification for a
16 single license to include one or more of the following lines of authority:

17 (f) Bail bonding agent including a surety agent, ~~as defined in~~
18 ~~section 12-7-101(1), C.R.S.,~~ a cash bonding agent, ~~as defined in section~~
19 ~~12-7-102(1), C.R.S.,~~ and a professional cash bail agent, as defined in
20 section 12-7-101, ~~(7)~~, C.R.S.;

21 **SECTION 3.** In Colorado Revised Statutes, **amend** 12-7-101 as
22 follows:

23 **12-7-101. Definitions.** As used in this article, unless the context
24 otherwise requires:

25 (1) "BAIL BONDING AGENCY" OR "AGENCY" MEANS AN ENTITY

1 THAT APPOINTS BAIL BONDING AGENTS WHO USE POWERS OF ATTORNEY
2 ISSUED BY A BAIL INSURANCE COMPANY.

3 (†) (1.2) "Bail bonding agent" or "bonding agent" means any
4 person who:

5 (a) Furnishes bail for compensation in any court or courts in this
6 state; ~~and who~~

7 (b) Is appointed by an insurer by power of attorney to execute or
8 countersign bail bonds in connection with judicial proceedings; ~~and who~~

9 (c) Is other than a full-time salaried officer or employee of an
10 insurer or a person who pledges United States currency, a United States
11 postal money order, a cashier's check, or other property as security for a
12 bail bond in connection with a judicial proceeding, whether for
13 compensation or otherwise.

14 (1.3) "Bail insurance company" means an insurer as defined in
15 section 10-1-102 (13), C.R.S., engaged in the business of writing bail
16 appearance bonds through bonding agents, which company is subject to
17 regulation by the division. ~~of insurance in the department of regulatory~~
18 ~~agencies.~~

19 (1.5) "Bail recovery" means actions taken by a person other than
20 a peace officer to apprehend an individual or take an individual into
21 custody because of the failure of ~~such~~ THE individual to comply with bail
22 bond requirements.

23 (2) (Deleted by amendment, L. 96, p. 1177, § 1, effective June 1,
24 1996.)

25 (2.3) "CASH BONDING AGENT" MEANS A PERSON WHO WAS
26 LICENSED BY THE DIVISION AS OF JANUARY 1, 1992, TO WRITE BAIL BONDS
27 AS A CASH BONDING AGENT.

1 (2.4) "COMMISSIONER" MEANS THE COMMISSIONER OF INSURANCE,
2 APPOINTED PURSUANT TO SECTION 10-1-104, C.R.S.

3 (2.5) "Compensated surety" means any person in the business of
4 writing bail appearance bonds who is subject to regulation by the
5 Colorado division, of insurance, including bonding agents and bail
6 insurance companies. Nothing in this subsection (2.5) shall be construed
7 to authorize AUTHORIZES bail insurance companies to write bail bonds
8 except through licensed bail bonding agents.

9 (3) "Division" means the division of insurance IN THE
10 DEPARTMENT OF REGULATORY AGENCIES.

11 (4) (Deleted by amendment, L. 96, p. 1177, § 1, effective June 1,
12 1996.)

13 (5) Repealed.

14 (6) "On the board" means that the name of a compensated surety
15 has been publicly posted or disseminated by a court as being ineligible to
16 write bail bonds pursuant to section 16-4-112 (5) (e) or (5) (f), C.R.S.

17 (7) "Professional cash bail agent" means a person ~~who is an~~
18 ~~authorized bail bond agent~~ who furnishes bail for compensation in any
19 court or courts in this state in connection with judicial proceedings ~~and~~
20 ~~who is not~~ BY POSTING A BOND WITH THE DIVISION IN LIEU OF BEING
21 APPOINTED BY A BAIL INSURANCE COMPANY. "PROFESSIONAL CASH BAIL
22 AGENT" DOES NOT MEAN a full-time salaried officer or employee of an
23 insurer nor a person who pledges United States currency, a United States
24 postal money order, a cashier's check, or other property in connection
25 with a judicial proceeding, whether for compensation or otherwise.

26 **SECTION 4.** In Colorado Revised Statutes, 12-7-102, **amend** (1)
27 and (2) as follows:

1 **12-7-102. License required - bail bonding agent -**
2 **qualifications - enforcement.** (1) No person ~~can qualify~~ QUALIFIES to be
3 a bail bonding agent unless ~~such~~ THE person is a licensed insurance
4 producer appointed to represent an insurance company or is a licensed,
5 professional cash bail agent under article 2 of title 10, C.R.S. However,
6 any bail bonding agent who was licensed by the division as of January 1,
7 1992, to write bail bonds as a cash bonding agent ~~shall be permitted to~~
8 MAY continue ~~such~~ THE licensure upon compliance with the other
9 requirements of this article.

10 (2) ~~No firm, partnership, association, or corporation, as such, shall~~
11 ~~be licensed. No person engaged as~~ THE DIVISION SHALL NOT LICENSE a
12 law enforcement or judicial officer ~~shall be licensed~~ as a bonding agent.

13 ~~(a) and (b) (Deleted by amendment, L. 96, p. 1178, § 2, effective~~
14 ~~June 1, 1996.)~~

15 ~~(c) to (e) (Deleted by amendment, L. 95, p. 280, § 2, effective July~~
16 ~~1, 1995.)~~

17 **SECTION 5.** In Colorado Revised Statutes, 12-7-102.5, **amend**
18 (7) as follows:

19 **12-7-102.5. Prelicensure education requirements - exemptions.**
20 (7) The professional cash ~~bonding~~ BAIL agent ~~shall~~ MUST be licensed as
21 a bail bonding agent in Colorado for four years ~~prior to applying~~ TO
22 QUALIFY for licensure as a professional cash bail agent.

23 **SECTION 6.** In Colorado Revised Statutes, 12-7-103, **amend**
24 (1.5) (b) (I) and (1.5) (b) (II) as follows:

25 **12-7-103. License requirements - application - qualification**
26 **bond - forfeiture.** (1.5) (b) For purposes of this subsection (1.5),
27 "applicant" shall include any:

- 1 (I) Bail bonding agent; ~~as defined in section 12-7-101 (1);~~
- 2 (II) Professional cash bail agent; ~~as defined in section 12-7-101~~
- 3 ~~(7);~~ and

4 **SECTION 7.** In Colorado Revised Statutes, 12-7-105, **amend** (1)
5 introductory portion as follows:

6 **12-7-105. Reports and records required - bonding agents -**
7 **division.** (1) Each ~~licensed~~ bail bonding agent, CASH BONDING AGENT, OR
8 PROFESSIONAL CASH BAIL AGENT shall provide a report to the division ~~no~~
9 ~~later than November 1~~ of each year ~~Such report shall be~~ in the form, AT
10 THE TIME, and IN THE manner that the division requires. ~~and shall~~ THE
11 REPORT MUST include ~~but shall not be limited to,~~ the following
12 information:

13 **SECTION 8.** In Colorado Revised Statutes, 12-7-108, **amend** (2)
14 and (3) as follows:

15 **12-7-108. Bonding agreement - place of business - records -**
16 **payment schedule - disclosure statements.** (2) Each ~~bail bonding agent~~
17 PERSON LICENSED UNDER THIS ARTICLE shall use a third-party agent or his
18 or her own office for the purposes of service of process. The BAIL
19 BONDING AGENT SHALL FILE THE name and address of the place of
20 business of the bail ~~bond~~ BONDING agent or agent of service of process
21 ~~shall be filed~~ with the division. ~~of insurance.~~

22 (3) As a minimum requirement for permanent office records, each
23 bail bonding agent, ~~who is engaged in the bail bond business~~ CASH
24 BONDING AGENT, OR PROFESSIONAL CASH BAIL AGENT shall maintain a
25 current and up-to-date bond ~~register~~ CASE FILE in a form with ~~such~~ ANY
26 content ~~as prescribed~~ REQUIRED by the commissioner, ~~that shall identify~~
27 IDENTIFYING all bonds or undertakings executed by the licensee.

1 **SECTION 9.** In Colorado Revised Statutes, 12-7-109, **add** (1) (p)
2 as follows:

3 **12-7-109. Prohibited activities - penalties.** (1) It is unlawful for
4 any licensee under this article to engage in any of the following activities:

5 (p) USE A FORM THAT IS NOT APPROVED BY THE DIVISION IN THE
6 FURNISHING OF BAIL OR ENTERING A TRANSACTION WITH A CLIENT.

7 **SECTION 10.** In Colorado Revised Statutes, **amend** 12-7-112 as
8 follows:

9 **12-7-112. Repeal - review of functions.** This article is repealed,
10 effective ~~July 1, 2012~~ SEPTEMBER 1, 2017. Prior to such repeal, the
11 DEPARTMENT OF REGULATORY AGENCIES SHALL REVIEW THE licensing
12 functions of the commissioner and the division ~~shall be reviewed~~ as
13 provided for in section 24-34-104, C.R.S.

14 **SECTION 11.** In Colorado Revised Statutes, **add** 12-7-114 as
15 follows:

16 **12-7-114. Division approves forms.** THE DIVISION SHALL
17 APPROVE OR DISAPPROVE ANY FORMS SUBMITTED BY A BAIL BONDING
18 AGENT WITHIN THIRTY DAYS AFTER A FORM IS SUBMITTED.

19 **SECTION 12.** In Colorado Revised Statutes, 24-34-104, **amend**
20 (48.5); and **repeal** (43) (f) as follows:

21 **24-34-104. General assembly review of regulatory agencies**
22 **and functions for termination, continuation, or reestablishment.**

23 (43) The following agencies, functions, or both, shall terminate on July
24 1, 2012:

25 (f) ~~The licensing of bail bonding agents through the division of~~
26 ~~insurance in accordance with article 7 of title 12, C.R.S.;~~

27 (48.5) The following agencies, functions, or both, shall terminate

1 on September 1, 2017:

2 (a) The domestic violence offender management board created in
3 section 16-11.8-103, C.R.S.;

4 (b) THE LICENSING OF BAIL BONDING AGENTS THROUGH THE
5 DIVISION OF INSURANCE IN ACCORDANCE WITH ARTICLE 7 OF TITLE 12,
6 C.R.S.

7 **SECTION 13. Effective date.** This act takes effect July 1, 2012.

8 **SECTION 14. Safety clause.** The general assembly hereby finds,
9 determines, and declares that this act is necessary for the immediate
10 preservation of the public peace, health, and safety.