An Act

ENROLLED HOUSE
BILL NO. 2922

By: Kirby of the House

and

Sparks of the Senate

An Act relating to bail bonds; amending 59 O.S. 2011, Sections 1301, as amended by Section 1, Chapter 53, O.S.L. 2014, 1302, 1306, as last amended by Section 1, Chapter 110, O.S.L. 2015, Section 3, Chapter 53, O.S.L. 2014, as renumbered by Section 13, Chapter 110, O.S.L. 2015 (59 O.S. Supp. 2015, Section 1306.1), and as last amended by Section 1 of Enrolled Senate Bill No. 976 of the 2nd Session of the 55th Oklahoma Legislature, 1310, as last amended by Section 4, Chapter 110, O.S.L. 2015, 1311.3, as last amended by Section 5, Chapter 110, O.S.L. 2015, Section 13, Chapter 373, O.S.L. 2014, 1314, as last amended by Section 6, Chapter 110, O.S.L. 2015, 1316, as last amended by Section 8, Chapter 110, O.S.L. 2015, 1317, as last amended by Section 9, Chapter 110, O.S.L. 2015 and 1328, as amended by Section 24, Chapter 407, O.S.L. 2013 (59 O.S. Supp. 2015, Sections 1301, 1306, 1310, 1311.3, 1311.4, 1314, 1316, 1317 and 1328), which relate to the licensing and regulation of bail bondsmen; updating statutory citations; modifying certain definitions; clarifying certain investigation requirement; adding requirement for professional bail bondsman license; clarifying circumstances that allow for a license to be denied, suspended or revoked; modifying exception to certain prohibited act; modifying requirements that allow a bondsman to receive assistance from another bondsman; modifying references to specified bondsmen; providing time limitation for the retention of certain records; directing bondsmen to provide certain documentation for appearance bonds; deleting certain requirement for issuing receipts; clarifying procedures relating to appointment forms; requiring bondsmen to possess bail bondsman license when apprehending or

surrendering defendants; and providing an effective date.

SUBJECT: Bail bonds

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 59 O.S. 2011, Section 1301, as amended by Section 1, Chapter 53, O.S.L. 2014 (59 O.S. Supp. 2015, Section 1301), is amended to read as follows:

Section 1301. A. Sections 1301 through ~~1340~~ 1341 of this title shall only apply to the regulation of bail bonds for crimes, the punishment of which may be in excess of Twenty Dollars ($20.00) fine or twenty (20) days in jail, or both such fine and imprisonment.

B. As used in Sections 1301 through ~~1340~~ 1341 of this title:

1. "Commissioner" means the Insurance Commissioner of the State of Oklahoma;

2. "Clerk" means the district or municipal court clerk;

3. "Insurer" means any domestic, foreign or alien surety company which has qualified generally to transact surety business and specifically to transact bail bond business in this state and any professional bondsman or multicounty agent bondsman;

4. "Bail bondsman" means a surety bondsman, professional bondsman, multicounty agent bondsman, property bondsman, or a cash bondsman as hereinafter defined;

5. "Surety bondsman" means any person who has been approved by the Commissioner and appointed by an insurer ~~or a professional bondsman,~~ by power of attorney~~,~~ to execute or countersign bail bonds for the insurer ~~or a professional bondsman,~~ in connection with judicial proceedings and charges and receives money for his or her services;

6. "Managing general agent" (M.G.A.) means any person acting in the capacity of supervisor or manager over a licensed bondsman, who has been granted the authority or responsibility by ~~a surety company~~ an insurer to conduct surety business on its behalf, and to oversee

the activities and conduct of the ~~surety's~~ appointed licensed bondsman agents of the insurer, and who generally functions as an intermediate manager between the ~~surety~~ insurer and its licensed bondsman agents. A managing general agent fulfilling these functions shall be a natural person, shall meet the qualifications of paragraph 5 of this subsection and shall be licensed as a bondsman;

7. "Professional bondsman" means any person who has been approved by the Commissioner and who pledges cash as security for a bail bond in connection with a judicial proceeding and charges and receives money for his or her services;

8. "Property bondsman" means any person who has been approved by the Commissioner and who pledges real property as security for a bail bond in a judicial proceeding and charges and receives money for his or her services;

9. "Cash bondsman" means any person who has been approved by the Commissioner and who deposits cash money as security for a bail bond in a judicial proceeding and charges and receives money for his or her services;

10. "Escrow deposit" means cash or valuable security deposited by an insurer ~~of a surety bondsman or professional bondsman~~ to secure the face amount of forfeiture pending appeal;

11. "Solicitation" means to ask for earnestly, seek to obtain by persuasion or entreaty, implore, beseech, tempt or entice a person directly or through another person by personal, mechanical, printed or published means to purchase a bail bond. Solicitation shall not include mass communication advertising, which shall include, but not be limited to, television, newspapers, magazines and billboards;

12. "Bond" means an appearance bond for a specified monetary amount which is executed by the defendant and a licensed bondsman pursuant to the provisions of Section 1301 et seq. of this title and which is issued to a court clerk as security for the subsequent court appearance of the defendant upon release from actual custody pending the appearance; and

13. "Multicounty agent bondsman" means a professional bondsman who has been approved by the Commissioner and who otherwise complies with the provisions of Section ~~1306~~ 1306.1 of this title.

SECTION 2. AMENDATORY 59 O.S. 2011, Section 1302, is amended to read as follows:

Section 1302. A. The Insurance Commissioner shall have full power and authority to administer the provisions of this act, which regulates bail bondsmen and to that end to adopt, and promulgate rules and regulations to enforce the purposes and provisions of this act. The Commissioner may employ and discharge such employees, examiners, counsel, and such other assistants as shall be deemed necessary, and he shall prescribe their duties and their compensation shall be the same as other state employees receive for similar services.

B. Any written instrument purporting to be a copy of any action, proceeding, or finding of fact by the Commissioner, or any record of the seal of his office shall be accepted by all the courts of this state as prima facie evidence of the contents thereof.

C. ~~Open and ongoing investigative~~ Investigative files shall not be open for review unless so ordered by a proper administrative order of the hearing examiner or Commissioner or by proper judicial order or legislative committee.

SECTION 3. AMENDATORY 59 O.S. 2011, Section 1306, as last amended by Section 1, Chapter 110, O.S.L. 2015 (59 O.S. Supp. 2015, Section 1306), is amended to read as follows:

Section 1306. A. 1. An applicant for a cash bondsman license shall meet all requirements set forth in Section 1305 of this title with exception of the one-year residence requirement. An applicant for a cash bondsman license shall affirmatively show that the applicant has been a bona fide resident of the state for six (6) months.

2. In addition to the requirements prescribed in Section 1305 of this title, an applicant for a professional bondsman license shall have been continually licensed as a surety, cash or property bondsman in the State of Oklahoma for a minimum of two (2) years immediately prior to the date of application and shall submit to the Insurance Commissioner an audited financial statement prepared by an accounting firm or individual holding a permit to practice public accounting in this state in accordance with the Statements on Auditing Standards promulgated by the Auditing Standards Board of the American Institute of Certified Public Accountants setting forth

the total assets of the bondsman less liabilities and debts as follows: For all applications made prior to November 1, 2006, and the subsequent renewals of a license issued upon the application when continuously maintained in effect as required by law, the statement shall show a net worth of at least Fifty Thousand Dollars ($50,000.00). For all applications made on and after November 1, 2006, and the subsequent renewals of a license issued upon the application when continuously maintained in effect as required by law, or for the renewal or reinstatement of any license that is expired pursuant to subsection D of Section 1309 of this title, suspended or revoked, the statement shall show a net worth of at least One Hundred Fifty Thousand Dollars ($150,000.00), the statements to be current as of a date not earlier than ninety (90) days prior to submission of the application and the statement shall be attested to by an unqualified opinion of the accountant.

3. Professional bondsman applicants shall make a deposit with the Insurance Commissioner in the same manner as required of domestic insurance companies of an amount to be determined by the Commissioner. For all applications made prior to November 1, 2006, and the subsequent renewals of a license issued upon the application when continuously maintained in effect as required by law, the deposit shall not be less than Twenty Thousand Dollars ($20,000.00). For all applications made on and after November 1, 2006, and the subsequent renewals of a license issued upon the application when continuously maintained in effect as required by law, or for the renewal or reinstatement of any license that is expired pursuant to subsection D of Section 1309 of this title, suspended or revoked, the deposit shall not be less than Fifty Thousand Dollars ($50,000.00). The deposits shall be subject to all laws, rules and regulations as deposits by domestic insurance companies but in no instance shall a professional bondsman write bonds which equal more than ten times the amount of the deposit which the bondsman has submitted to the Commissioner. Such deposit shall require the review and approval of the Insurance Commissioner prior to exceeding the maximum amount of Federal Deposit Insurance Corporation basic deposit coverage for any one bank or financial institution. In addition, a professional bondsman may make the deposit by purchasing an annuity through a licensed domestic insurance company in the State of Oklahoma. The annuity shall be in the name of the bondsman as owner with legal assignment to the Insurance Commissioner. The assignment form shall be approved by the Commissioner. If a bondsman exceeds the above limitation, the bondsman shall be notified by the Commissioner that the excess shall be reduced or the deposit increased within ten (10) days of notification, or the

license of the bondsman shall be suspended immediately after the ten-day period, pending a hearing on the matter.

4. The deposit provided for in this section shall constitute a reserve available to meet sums due on forfeiture of any bonds or recognizance executed by the bondsman.

5. Any deposit made by a professional bondsman pursuant to this section shall be released and returned by the Commissioner to the professional bondsman only upon extinguishment of all liability on outstanding bonds. Provided, however, the Commissioner shall have the authority to review specific financial circumstances and history of a professional bondsman, on a case-by-case basis, and may release a portion of the deposit if warranted. The Commissioner may promulgate rules to effectuate the provisions of this paragraph.

6. No release of deposits to a professional bondsman shall be made by the Commissioner except upon written application and the written order of the Commissioner. The Commissioner shall have no liability for any such release to a professional bondsman provided the release was made in good faith.

B. The deposit provided in this section shall be held in safekeeping by the Insurance Commissioner and shall only be used if a bondsman fails to pay an order and judgment of forfeiture after being properly notified or shall be used if the license of a professional bondsman has been revoked. The deposit shall be held in the name of the Insurance Commissioner and the bondsman. The bondsman shall execute an assignment or pledge of the deposit to the Insurance Commissioner for the payment of unpaid bond forfeitures.

C. Currently licensed professional bondsmen may maintain their aggregate liability limits upon presentation of documented proof that they have previously been granted a limitation greater than the requirements of subsection A of this section.

D. Notwithstanding any other provision of Sections 1301 through ~~1340~~ 1341 of this title, the license of a professional bondsman is transferable upon the death or legal or physical incapacitation of the bondsman to the spouse of the bondsman, or to such other transferee as the professional bondsman may designate in writing, and the transferee may elect to act as a professional bondsman for a period of one hundred eighty (180) days if the following conditions are met:

1. The transferee shall hold a valid license as a surety bondsman in this state; and

2. The asset and deposit requirements set forth in this section continue to be met.

SECTION 4. AMENDATORY Section 3, Chapter 53, O.S.L. 2014, as renumbered by Section 13, Chapter 110, O.S.L. 2015 (59 O.S. Supp. 2015, Section 1306.1), and as last amended by Section 1 of Enrolled Senate Bill No. 976 of the 2nd Session of the 55th Oklahoma Legislature, is amended to read as follows:

Section 1306.1 A. 1. An applicant for a multicounty agent bondsman license shall have been continually licensed as a professional bondsman in the State of Oklahoma for a minimum of two (2) years without suspension or having any unpaid forfeitures prior to the date of application.

2. In addition to the requirements prescribed in Sections 1305 and 1306 of this title, an applicant for a multicounty agent bondsman license shall submit to the Insurance Commissioner an annual audited financial statement prepared by an accounting firm or individual holding a permit to practice public accounting in this state in accordance with the Statements on Auditing Standards promulgated by the Auditing Standards Board of the American Institute of Certified Public Accountants setting forth the total assets of the bondsman less liabilities and debts. For initial applications and for subsequent renewals of the license, the statement shall show a net worth of at least Two Hundred Fifty Thousand Dollars ($250,000.00). The statement shall be current as of a date not earlier than ninety (90) days prior to submission of the application and the statement shall be attested to by an unqualified opinion of the accountant.

3. Multicounty agent bondsman applicants shall make a deposit with the Insurance Commissioner in the same manner as required of domestic insurance companies. The deposit shall not be less than One Hundred Thousand Dollars ($100,000.00). Provided however, any and all deposits made pursuant to paragraph 3 of subsection A of Section 1306 of this title shall count toward the fulfillment of any deposit amount required by this section. The deposit shall be subject to all laws, rules, and regulations as deposits by domestic insurance companies but in no instance, except as provided herein, shall a multicounty agent bondsman write bonds which equal more than twelve times the amount of the deposit which the bondsman has

submitted to the Commissioner; provided however, any currently licensed professional bondsman in good standing with the Department and who, on the effective date of this act, meets the provisions of the grandfather clause set forth in Section 1306 of this title and who otherwise meets the requirements of this section shall be afforded the same liability ratio as that of such grandfathered professional bondsman. Such deposit shall require the review and approval of the Insurance Commissioner prior to exceeding the maximum amount of Federal Deposit Insurance Corporation basic deposit coverage for any one bank or financial institution. In addition, a multicounty agent bondsman may make the deposit by purchasing an annuity through a licensed domestic insurance company in the State of Oklahoma. The annuity shall be in the name of the bondsman as owner with legal assignment to the Insurance Commissioner. The assignment form shall be approved by the Commissioner. If a bondsman exceeds the above limitation, the bondsman shall be notified by the Commissioner that the excess shall be reduced or the deposit increased within ten (10) days of notification, or the license of the bondsman shall be suspended immediately after the ten-day period, pending a hearing on the matter.

4. The deposit provided for in this section shall constitute a reserve available to meet sums due on forfeiture of any bonds or recognizance executed by the bondsman.

5. Any deposit made by a multicounty agent bondsman pursuant to this section shall be released and returned by the Commissioner to the multicounty agent bondsman only upon extinguishment of all liability on outstanding bonds. Provided, however, the Commissioner shall have the authority to review specific financial circumstances and history of a multicounty agent bondsman, on a case-by-case basis, and may release a portion of the deposit if warranted. The Commissioner may promulgate rules to effectuate the provisions of this paragraph.

6. No release of deposits to a multicounty agent bondsman shall be made by the Commissioner except upon written application and the written order of the Commissioner. The Commissioner shall have no liability for any such release to a multicounty agent bondsman provided the release was made in good faith.

B. The deposit provided in this section shall be held in safekeeping by the Insurance Commissioner and shall only be used if a bondsman fails to pay an order and judgment of forfeiture after

being properly notified or shall be used if the license of a multicounty agent bondsman has been revoked. The deposit shall be held in the name of the Insurance Commissioner and the bondsman. The bondsman shall execute an assignment or pledge of the deposit to the Insurance Commissioner for the payment of unpaid bond forfeitures.

C. Notwithstanding any other provision of Sections 1301 through ~~1340~~ 1341 of this title, the license of a multicounty agent bondsman is transferable upon the death or legal or physical incapacitation of the bondsman to the spouse of the bondsman or to such other transferee as the multicounty agent bondsman may designate in writing, and the transferee may elect to act as a multicounty agent bondsman for a period of one hundred eighty (180) days if the following conditions are met:

1. The transferee shall hold a valid license as a surety bondsman in this state; and

2. The asset and deposit requirements set forth in this section continue to be met.

At the end of the one-hundred-eighty-day period, the transferee shall be allowed to apply for a license as a multicounty agent bondsman, provided he or she has been continually licensed as a surety bondsman for at least five (5) years immediately prior to the date of application, notwithstanding the requirements of paragraph 1 of subsection A of this section.

D. A multicounty agent bondsman may appoint by power of attorney a licensed surety bondsman as his or her agent to execute bail bonds within any county in the State of Oklahoma. The number of bail bonds a multicounty agent bondsman may insure in counties other than the county he or she registers his or her license, pursuant to subsection A of Section 1320 of this title, shall not be limited by subsection B of Section 1320 of this title.

SECTION 5. AMENDATORY 59 O.S. 2011, Section 1310, as last amended by Section 4, Chapter 110, O.S.L. 2015 (59 O.S. Supp. 2015, Section 1310), is amended to read as follows:

Section 1310. A. The Insurance Commissioner may deny, censure, suspend, revoke, or refuse to renew any license issued under Sections 1301 through ~~1340~~ 1341 of this title for any of the following causes:

1. For any cause for which issuance of the license could have been refused;

2. Violation of any laws of this state or any lawful rule, regulation, or order of the Commissioner relating to bail;

3. Material misstatement, misrepresentation, or fraud in obtaining the license;

4. Misappropriation, conversion, or unlawful withholding of monies or property belonging to insurers, insureds, or others received in the conduct of business under the license;

5. Conviction of, or having entered a plea of guilty or nolo contendere to, any felony or to a misdemeanor involving moral turpitude or dishonesty;

6. Fraudulent or dishonest practices or demonstrating financial irresponsibility in conducting business under the license;

7. Failure to comply with, or violation of any proper order, rule, or regulation of the Commissioner;

8. Recommending any particular attorney-at-law to handle a case in which the bail bondsman has caused a bond to be issued under the terms of Sections 1301 through ~~1340~~ 1341 of this title;

9. When, in the judgment of the Commissioner, the licensee has, in the conduct of affairs under the license, demonstrated incompetency, or untrustworthiness, or conduct or practices rendering the licensee unfit to carry on the bail bond business or making continuance in the business detrimental to the public interest;

10. When the licensee is no longer in good faith carrying on the bail bond business;

11. When the licensee is guilty of rebating, or offering to rebate, or dividing with someone other than a licensed bail bondsman, or offering to divide commissions in the case of limited surety agents, or premiums in the case of professional bondsmen, and for this conduct is found by the Commissioner to be a source of detriment, injury, or loss to the public;

12. For any materially untrue statement in the license application;

13. Misrepresentation of the terms of any actual or proposed bond;

14. For forging the name of another to a bond or application for bond;

15. Cheating on an examination for licensure;

16. Soliciting business in or about any place where prisoners are confined, arraigned, or in custody;

17. For paying a fee or rebate, or giving or promising anything of value to a jailer, trustee, police officer, law enforcement officer, or other officer of the law, or any other person who has power to arrest or hold in custody, or to any public official or public employee in order to secure a settlement, compromise, remission, or reduction of the amount of any bail bond or estreatment thereof, or to secure delay or other advantage. This shall not apply to a jailer, police officer, or officer of the law who is not on duty and who assists in the apprehension of a defendant;

18. For paying a fee or rebating or giving anything of value to an attorney in bail bond matters, except in defense of an action on a bond;

19. For paying a fee or rebating or giving or promising anything of value to the principal or anyone in the behalf of the principal;

20. Participating in the capacity of an attorney at a trial or hearing for one on whose bond the licensee is surety;

21. Accepting anything of value from a principal, other than the premium; provided, the bondsman shall be permitted to accept collateral security or other indemnity from the principal which shall be returned immediately upon final termination of liability on the bond and upon satisfaction of all terms, conditions, and obligations contained within the indemnity agreement; provided, however, a bondsman shall not refuse to return collateral or other indemnity because of nonpayment of premium. Collateral security or

other indemnity required by the bondsman shall be reasonable in relation to the amount of the bond;

22. Willful failure to return collateral security to the principal when the principal is entitled thereto;

23. For failing to notify the Commissioner of a change of legal name, residence address, business address, mailing address, e-mail address, or telephone number within five (5) days after a change is made, or failing to respond to a properly mailed notification within a reasonable amount of time;

24. For failing to file a report as required by Section 1314 of this title;

25. For filing a materially untrue monthly report;

26. For filing false affidavits regarding cancellation of the appointment of an insurer;

27. Forcing the Commissioner to withdraw deposited monies to pay forfeitures or any other outstanding judgments;

28. For failing to pay any fees to a district court clerk as are required by this title or failing to pay any fees to a municipal court clerk as are required by this title or by Section 28-127 of Title 11 of the Oklahoma Statutes;

29. For uttering an insufficient or uncollected check or electronic funds transfer to the Insurance Commissioner for any fees, fines or other payments received by the Commissioner from the bail bondsman;

30. For failing to pay travel expenses for the return of the defendant to custody once having guaranteed the travel expenses;

31. The Commissioner may also refuse to renew a licensed bondsman for failing to file all outstanding monthly bail reports, pay any outstanding fines, pay any outstanding monthly report reviewal fees owed to the Commissioner, or respond to a current order issued by the Commissioner;

32. For failing to accept or claim a certified mailing from the Insurance Department, or from any district or municipal court clerk

addressed to the ~~bondsman's~~ mailing address of the bondsman on file with the Insurance Department; and

33. For posting a bond for any defendant without first obtaining a written or oral agreement with the defendant or cosigner of the bond.

B. In addition to any applicable denial, censure, suspension, or revocation of a license, any person violating any provision of Sections 1301 through ~~1340~~ 1341 of this title may be subject to a civil penalty of not less than Two Hundred Fifty Dollars ($250.00) nor more than Two Thousand Five Hundred Dollars ($2,500.00) for each occurrence. This fine may be enforced in the same manner in which civil judgments may be enforced. Any order for civil penalties entered by the Commissioner or authorized decision-maker for the Insurance Department which has become final may be filed with the court clerk of Oklahoma County and shall then be enforced by the judges of Oklahoma County.

C. No bail bondsman or bail bond agency shall advertise as or hold itself out to be a surety company.

D. If any bail bondsman is convicted by any court of a violation of any of the provisions of this act, the license of the individual shall therefore be deemed to be immediately revoked, without any further procedure relative thereto by the Commissioner.

E. For one (1) year after notification by the Commissioner of an alleged violation, or for two (2) years after the last day the person was licensed, whichever is the lesser period of time, the Commissioner shall retain jurisdiction as to any person who cancels his bail bondsman's license or allows the license to lapse, or otherwise ceases to be licensed, if the person while licensed as a bondsman allegedly violated any provision of this title. Notice and opportunity for hearing shall be conducted in the same manner as if the person still maintained a bondsman's license. If the Commissioner or a hearing examiner determines that a violation of the provisions of Sections 1301 through ~~1340~~ 1341 of this title occurred, any order issued pursuant to the determination shall become a permanent record in the file of the person and may be used if the person should request licensure or reinstatement.

F. Any law enforcement agency, district attorney's office, court clerk's office, or insurer that is aware that a licensed bail bondsman has been convicted of or has pleaded guilty or nolo

contendere to any crime shall notify the Insurance Commissioner of that fact.

SECTION 6. AMENDATORY 59 O.S. 2011, Section 1311.3, as last amended by Section 5, Chapter 110, O.S.L. 2015 (59 O.S. Supp. 2015, Section 1311.3), is amended to read as follows:

Section 1311.3 A. It shall be unlawful for any person whose license to act as a bail bondsman has been suspended, revoked, surrendered, or refused, to do or perform any of the acts of a bail bondsman. Any person convicted of violating the provisions of this subsection shall be guilty of a felony and shall be punished by a fine in an amount not exceeding Five Thousand Dollars ($5,000.00).

B. It shall be unlawful for any bail bondsman to assist, aid, or conspire with a person whose license as a bail bondsman has been suspended, revoked, surrendered, or refused, to engage in any acts as a bail bondsman. Any person convicted of violating the provisions of this subsection shall be guilty of a felony and shall be punished by a fine in an amount not to exceed Five Thousand Dollars ($5,000.00).

C. The provisions of this section shall not apply to a ~~person whose~~ suspended or formerly licensed bail bondsman ~~license is suspended or revoked in this state and~~ who continues to submit monthly reports to the Insurance Department pursuant to subsection B of Section 1314 of this title or who contracts with a licensed bail enforcer pursuant to the Bail Enforcement and Licensing Act to cause the apprehension and surrender of his or her defendant clients to the appropriate authority. The defendant client must have a current undertaking or bail contract with the ~~person whose~~ suspended or formerly licensed bail bondsman ~~license is suspended or revoked~~ and such undertaking or bail contract must have been made in this state by the ~~person whose license is now suspended or revoked~~ suspended or formerly licensed bail bondsman. No acts other than ~~contracting with a licensed bail enforcer to surrender a defendant client to the appropriate authority~~ those listed in this subsection shall be authorized or recognized after a bail bondsman ~~license~~ is suspended or ~~revoked~~ no longer licensed in this state.

SECTION 7. AMENDATORY Section 13, Chapter 373, O.S.L. 2014 (59 O.S. Supp. 2015, Section 1311.4), is amended to read as follows:

Section 1311.4 Notwithstanding any provision of the Bail Enforcement and Licensing Act to the contrary, a licensed ~~bondman~~ bondsman in this state, for purposes of apprehension and surrender of his or her defendant client whose undertaking or bail contract was written by the licensed bondsman, may seek assistance from, or provide assistance to, another licensed bondsman in this state or another state ~~for purposes of apprehension and surrender of their defendant client whose undertaking or bail contract was written by the licensed bondsman or a bondsman appointed by an insurer doing business in this state~~; provided, the ~~licensed bondsmen have~~ assisting bondsman:

1. Has held a continuously valid ~~licensed~~ bail bondsman license in this state for five (5) or more years ~~beginning the effective date of this act~~ immediately prior to providing such assistance; or

2. Is duly appointed by the same insurer as the licensed bondsman seeking assistance.

The bondsman licensed in this state who is seeking assistance shall be required to obtain and maintain proof of the ~~other bondsman's~~ valid license of the assisting bondsman and license duration requirement prior to permitting such ~~person~~ assisting bondsman to engage in any act requiring a license in this state.

SECTION 8. AMENDATORY 59 O.S. 2011, Section 1314, as last amended by Section 6, Chapter 110, O.S.L. 2015 (59 O.S. Supp. 2015, Section 1314), is amended to read as follows:

Section 1314. A. When a bail bondsman or managing general agent accepts collateral, the bail bondsman or managing general agent shall give a written receipt for same, and this receipt shall give in detail a full description of the collateral received. A description of the collateral shall be listed on the undertaking by affidavit. All property taken as collateral, whether personal, intangible or real, shall be receipted for and deemed, for all purposes, to be in the name of, and for the use and benefit of, the ~~surety company or licensed professional bondsman or multicounty agent bondsman, as the case may be~~ insurer. Every receipt, encumbrance, mortgage or other evidence of the custody, possession or claim shall facially indicate that it has been taken or made on behalf of the ~~surety company or professional bondsman or multicounty agent bondsman~~ insurer through its authorized agent, the individual licensed bondsman or managing general agent who has transacted the undertaking with the bond principal. Any mortgage or other

encumbrance against real property taken under the provisions of this section which does not indicate beneficial ownership of the claim to be in favor of the ~~surety company or professional bondsman or multicounty agent bondsman~~ insurer shall be deemed to constitute a cloud on the title to real estate and shall subject the person filing, or causing same to be filed, in the real estate records of the county, to a penalty of treble damages or One Thousand Dollars ($1,000.00), whichever is greater, in an action brought by the person, organization or corporation injured thereby. For collateral taken, or liens or encumbrances taken or made pursuant to the provisions of this section, the individual bondsman or managing general agent taking possession of the property or making the lien, claim or encumbrance shall do so on behalf of the ~~surety company or professional bondsman or multicounty agent bondsman, as the case may be~~ insurer, and the individual licensed bondsman shall be deemed to act in the capacity of fiduciary in relation to both:

1. The principal or other person from whom the property is taken or claimed against; and

2. The ~~surety company or professional bondsman or multicounty agent bondsman~~ insurer whose agent is the licensed bondsman.

As fiduciary and bailee for hire, the individual bondsman shall be liable in criminal or civil actions at law for failure to properly receipt or account for, maintain or safeguard, release or deliver possession upon lawful demand, in addition to any other penalties set forth in this subsection. No person who takes possession of property as collateral pursuant to this section shall use or otherwise dissipate the asset, or do otherwise with the property than to safeguard and maintain its condition pending its return to its lawful owner, or deliver to the ~~surety company or professional bondsman~~ insurer, upon lawful demand pursuant to the terms of the bailment.

B. Every licensed bondsman shall file monthly electronically with the Insurance Commissioner and on forms approved by the Commissioner as follows:

1. A monthly report showing every bond written, amount of bond, whether released or revoked during each month, showing the court and county, and the style and number of the case, premiums charged and collateral received; and

2. Professional bondsmen and multicounty agent bondsmen shall submit electronic monthly reports showing total current liabilities, all bonds written during the month by the professional bondsman or multicounty agent bondsman and by any licensed bondsman who may countersign for the professional bondsman or multicounty agent bondsman, all bonds terminated during the month, and the total liability and a list of all bondsmen currently employed by the professional bondsman or multicounty agent bondsman.

Monthly reports shall be submitted electronically to the Insurance Commissioner by the fifteenth day of each month. The records shall be maintained by the Commissioner as public records.

C. Every licensee shall keep at the place of business of the licensee the usual and customary records pertaining to transactions authorized by the license. All of the records shall be available and open to the inspection of the Commissioner at any time during business hours during the three (3) years immediately following the date ~~of~~ the ~~transaction~~ liability of the bondsman on the bond is discharged by the court or the date collateral is returned by the bondsman to its lawful owner, whichever is later. If an appearance bond is never executed and filed with the court, then all records shall be maintained for three (3) years immediately following the date the documents were prepared. The Commissioner may require a financial examination or market conduct survey during any investigation of a licensee.

D. Each bail bondsman shall submit each month with the monthly report of the bondsman, a reviewal fee equal to two-tenths of one percent (2/10 of 1%) of the new liability written for that month. The fee shall be payable to the Insurance Commissioner who shall deposit same with the State Treasurer.

SECTION 9. AMENDATORY 59 O.S. 2011, Section 1316, as last amended by Section 8, Chapter 110, O.S.L. 2015 (59 O.S. Supp. 2015, Section 1316), is amended to read as follows:

Section 1316. A. 1. A bail bondsman shall neither sign nor countersign in blank any bond, nor shall the bondsman give a power of attorney to, or otherwise authorize, anyone to countersign the name of the bail bondsman to bonds unless the person so authorized is a licensed surety bondsman or managing general agent appointed by a licensed professional bondsman or multicounty agent bondsman giving the power of attorney. The professional bondsman or multicounty agent bondsman shall notify the Commissioner whenever

any appointment is canceled. If the bondsman surrenders the professional or multicounty agent bondsman qualification, or the professional or multicounty agent bondsman qualification is suspended or revoked, or if ~~an insurer~~ a surety company authorized to write bail bond business surrenders their bail surety line of authority, or this line of authority is suspended or revoked, then the Commissioner shall suspend the appointment of all of the bail agents of the professional bondsman, multicounty agent bondsman or ~~insurer~~ surety company. The Commissioner shall immediately notify any bail agent whose license is affected and the court clerk of the agent's resident county upon the suspension or revocation of the qualification of the professional bondsman or multicounty agent bondsman or surety company. If the professional or multicounty agent bondsman qualification or the bail surety line of authority is reinstated within twenty-four (24) hours, the Commissioner shall not be required to suspend the bail agent appointments. If the Commissioner reinstates the professional or multicounty agent bondsman qualification or the bail surety line of authority within twenty-four (24) hours, the Commissioner shall also reinstate the appointment of the bail agents of the professional bondsman, multicounty agent bondsman or ~~bail insurer~~ surety company. If more than twenty-four (24) hours elapse following the suspension or revocation, then the professional bondsman, multicounty agent bondsman or ~~insurer~~ surety company shall submit new agent appointments to the Commissioner.

2. Bail bondsmen shall not allow other licensed bondsmen to present bonds that have previously been signed and completed. The bail bondsman that presents the bond shall sign the form in the presence of the official that receives the bond.

B. Premium charged shall be indicated on the appearance bond prior to the filing of the bond.

C. 1. At the time ~~of~~ he or she receives payment for the issuance of an appearance bond, a bail bondsman shall provide the payor or indemnitors with a proper receipt and copies of any agreements executed relating to the appearance bond.

2. Any receipt provided by a bondsman shall be individually numbered and include:

a. the precise amount of the fees, premium, collateral, or other payments received by the bondsman,

b. ~~copies of any agreements executed relating to the appearance bond,~~

~~c.~~ the full name of the defendant,

~~d.~~ c. the defendant's case number if it is available, and

~~e.~~ d. full name of the individual(s) presenting the payment.

D. All surety bondsmen or managing general agents shall attach a completed power of attorney to the appearance bond that is filed with the court clerk on each bond written.

E. Any bond written in this state shall contain the name and last-known mailing address of the bondsman and, if applicable, of the insurer.

SECTION 10. AMENDATORY 59 O.S. 2011, Section 1317, as last amended by Section 9, Chapter 110, O.S.L. 2015 (59 O.S. Supp. 2015, Section 1317), is amended to read as follows:

Section 1317. A. Every ~~surety, professional bondsman or multicounty agent bondsman~~ insurer who appoints a surety bondsman or managing general agent in the state shall give notice thereof to the Insurance Commissioner. The filing fee for appointment of each surety bondsman or managing general agent shall be Ten Dollars ($10.00), payable to the Commissioner and shall be submitted with the appointment. The appointment shall remain in effect until the ~~surety, professional bondsman or multicounty agent bondsman~~ insurer submits a notice of cancellation to the Commissioner, the license of the bail bondsman expires, or the Commissioner cancels the appointment. The Commissioner may cancel a bail surety appointment if the license of the bondsman is suspended, revoked or nonrenewed. If ~~the surety changes the liability limitations of the surety bondsman or the managing general agent, or any other provisions of the appointment~~ there is a change in any information submitted by the insurer on the appointment form, the ~~surety~~ insurer shall submit an amended appointment form and a filing fee of Ten Dollars ($10.00) payable to the Commissioner.

B. ~~A surety~~ An insurer terminating the appointment of a surety bondsman or managing general agent immediately shall file written notice thereof with the Commissioner, together with a statement that it has given or mailed notice to the surety bondsman or managing

general agent. The notice filed with the Commissioner shall state the reasons, if any, for the termination.

C. Prior to issuance of a new ~~surety~~ appointment for a surety bondsman or managing general agent, the bondsman or agent shall file an affidavit with the Commissioner stating that no forfeitures are owed to any court, no fines or fees are owed to the Insurance Department, and no premiums or indemnification for forfeitures or fines are owed to any insurer, insureds, or others received in the conduct of business under the license. If any statement made on the affidavit is found by the Commissioner to be false, the Commissioner may deny the new ~~surety~~ appointment, apply the sanctions set forth in Section 1310 of this title or both. This provision shall not require that all outstanding liabilities have been exonerated, but may provide that the liabilities are still being monitored by the bondsman or agent.

D. Every bail bondsman who negotiates and posts a bond shall, in any controversy between the defendant, indemnitor, or guarantor and the bail bondsman or ~~surety~~ insurer, be regarded as representing the ~~surety~~ insurer. This provision shall not affect the apparent authority of a bail bondsman as an agent for the insurer.

SECTION 11. AMENDATORY 59 O.S. 2011, Section 1328, as amended by Section 24, Chapter 407, O.S.L. 2013 (59 O.S. Supp. 2015, Section 1328), is amended to read as follows:

Section 1328. A. The bondsman or ~~surety~~ insurer, or a licensed bail enforcer pursuant to a client contract authorized by the Bail Enforcement and Licensing Act, desiring to make a surrender of the defendant shall procure or have in his or her possession a certified copy of the undertakings and deliver such documents together with the defendant to the official in whose custody the defendant was at the time bail was taken, or to the official into whose custody he or she would have been given had he or she been committed, who shall detain the defendant in custody thereon, as upon a commitment, and by a certificate in writing acknowledge the surrender.

Upon the presentation of a certified copy of the undertaking and the certificate of the official, the court before which the defendant has been held to answer, or the court in which the preliminary examination, indictment, information or appeal is pending, shall upon notice of three (3) days given by the person making the surrender to the prosecuting officer of the court having jurisdiction of the offense, together with a copy of the

undertakings and certificate, order that the obligors be exonerated from liability on their undertakings; and, if money has been deposited as bail, that such money or bonds be refunded. If property pledged, a certificate of exoneration be issued and the lien previously filed be released and the undertakings of whatever nature be canceled.

If certified copies of bonds are not reasonably available, the bondsman or ~~surety~~ insurer may recommit the defendant to be held in custody on the charges for which the bondsman or ~~surety~~ insurer has previously posted appearance bonds thereon in accordance with the following procedure:

1. On a Recommitment of Defendant by Bondsman form approved by the Administrative Office of the Courts, the bondsman or ~~surety~~ insurer shall personally affix his or her signature to an affidavit attesting to the following:

a. the bondsman or ~~surety~~ insurer has posted a bond or bonds for the defendant and is hereby presented to the official in whose custody the defendant was at the time bail was taken,

b. the case number, if any, assigned to each bond, and

c. the specific charges and bond amount or amounts;

2. The bondsman or ~~surety~~ insurer shall present the Recommitment of Defendant by Bondsman form to the official in whose custody the defendant is being surrendered, and the official shall detain the defendant in his or her custody thereon, as upon a commitment, and by a certificate in writing acknowledging the surrender; and

3. When a bondsman or ~~surety~~ insurer recommits a defendant pursuant to this subsection, the bondsman or ~~surety~~ insurer shall file a written notification thereof to the courts, and after such notification, the bond or bonds shall be exonerated and the clerk shall enter a minute in the case exonerating the bond or bonds.

B. Any bail bondsman engaged in the apprehension or surrender of his or her defendant client, and any bail bondsman assisting another bondsman pursuant to Section 1311.4 of this title, shall at all times while engaged in the apprehension or surrender of the defendant client have his or her bail bondsman license in his or her

possession and shall present the license to any law enforcement officer immediately upon request.

SECTION 12. This act shall become effective November 1, 2016.

Passed the House of Representatives the 23rd day of February, 2016.

Presiding Officer of the House of Representatives

Passed the Senate the 20th day of April, 2016.

Presiding Officer of the Senate

OFFICE OF THE GOVERNOR

Received by the Office of the Governor this 21st day of April, 2016, at 4:49 o'clock P M.

By: Audrey Rockwell

Approved by the Governor of the State of Oklahoma this 26th day of April, 2016, at 2:14 o'clock P M.

Governor of the State of Oklahoma

OFFICE OF THE SECRETARY OF STATE

Received by the Office of the Secretary of State this 26th day of April, 2016, at 3:24 o'clock P. M.

By: Chris Benge