

Final report of the Missouri Bail Bond Study Committee

Jan. 6, 2010



DIFP
Department of Insurance,
Financial Institutions &
Professional Registration

John M. Huff, Director

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Executive Summary

In accordance with HB 577, passed by the Missouri General Assembly and signed by Gov. Jay Nixon, the Missouri Department of Insurance, Financial Institutions and Professional Registration (DIFP) submits the following report on the current state of regulation of the bail bond industry in Missouri, along with recommendations for legislative, regulatory and policy changes. The law requires DIFP to submit a report to the insurance committees of the Missouri House of Representatives and Senate by Jan. 6, 2010.

The recommendations in this report were made by the Missouri Bail Bond Study Committee, established by the DIFP director. The department and committee are committed to improving the regulation and oversight of the bail bond industry and encourage the recommended changes be made as they are essential to the successful operation of the bail bond industry in Missouri. For more information on the committee and the process used in gathering information for the report, see page 5.

The committee found numerous areas where enhanced state regulation is needed, including:

- Ban on allowing felons licensure in the bail bond industry
- More training and oversight of CE providers
- Implement financial pre-approval requirements and oversight
- Increased fines and enforcement for violations
- Prohibition on licensees from working in jails, law enforcement agencies or courts
- More specific statutory definition of the bail bond business
- Applying HB 600 (state income tax obligations) to licensees

These and other recommendations are explained in greater detail throughout the report, beginning on page 7.

It has been a privilege to undertake this investigation and submit the following report, which the department believes will provide Missouri with significant improvements in the regulation and oversight of the bail bond industry.

History

Regulation of the bail bond industry in Missouri began in 1983 with the passage and implementation of Senate Bill 363. SB 363 provided for a dual-track system for posting criminal appearance bonds in Missouri. Provisions of SB 363 were amended with SB 267 in 2001 to include definitions for bail bond agent, general bail bond agent, property bail bondsman, surety bail bond agent, surety recovery agent and provisions related to surety recovery. SB 1122, passed in 2004, further amended the bail bond statutes to include licensure of surety recovery agents as well as adding a number of other provisions to the bail bond laws such as initial basic training and continuing education provisions.

Missouri statutes currently provide for licensure of: 1) bail bond agents who are employed by and work for the authority of a property or surety general bail bond agent; 2) general bail bond agents who are either surety agents or property bail bond agents and devote at least fifty percent of their working time to the bail bond business; 3) surety recovery agents.

Surety bail bond agents are appointed by an insurer by power of attorney to execute or countersign bail bonds in connection with judicial proceedings and receive or are promised money or other things of value. Property bail bond agents pledge cash, property or other things of value as security for a bail bond in connection with a judicial proceeding and receive or are promised money or other things of value.

Various bills have been filed since 2004 to make changes to the bail bond statutes but have not passed the General Assembly.

On August 28, 2009, provisions of HB 577, the department's omnibus insurance bill, became law directing the Missouri Department of Insurance, Financial Institutions and Professional Registration (DIFP) to conduct a review of the regulation of the bail bond industry in Missouri. HB 577 included the following language:

374.776. During the legislative interim between the first regular session and the second regular session of the ninety-fifth general assembly, the Missouri department of insurance, financial institutions and professional registration shall conduct a study regarding its licensing rules and other policies and procedures governing the bail bond industry within the state of Missouri. The department, in its discretion, may hold public hearings within the state and permit testimony and input from surety insurance companies, general bail bond agents, bail bond agents, legislators, law enforcement agencies, officials from the department, and other interested parties. If public hearings are held, the director shall provide notice to all licensees licensed under sections 374.695 to 374.789 of the date, time, and location of such public hearings. The department shall submit a report of its findings and recommendations to the house of representatives and senate insurance committees no later than January 6, 2010.

Missouri Bail Bond Study Committee

In order to gather broad input in the review of regulation of the bail bond industry, DIFP Director John M. Huff appointed a 15-member bail bond study committee. This committee consists of members of the Missouri legislature, law enforcement, the bail bond industry and the Missouri court system.

The director named the following members to serve on the committee:

Name	Group Represented	Geographic Area
Senator Rita Days	General Assembly	St. Louis area
Representative Brian Yates	General Assembly	Kansas City area
Brenda Marshall	Bail Bond Industry	Ozark
William Laughlin	Bail Bond Industry	Eldon
Angela Park	Bail Bond Industry	Rolla
Jack Allison	Bail Bond Industry	Mexico
Bart Cooper	Bail Bond Industry	Kansas City area
Michael Thomas	Bail Bond CE Provider	Statewide
Rick Adams	Associated Bail Agents of Missouri, Inc.	Statewide
Nancy Griggs	Office of State Courts Administrator	Statewide
Laura Ellis	Belton Municipal Court/MACA	Statewide
Judge Dan Conklin	Judiciary	Greene County
Judge Vernon Scoville III	Judiciary	Jackson County
Sheldon Lineback	Missouri Police Chiefs' Association	Statewide
Charles Heiss	Missouri Sheriffs' Association	Statewide

The Bail Bond Study Committee held its first meeting on October 6, 2009, in Jefferson City. At this planning meeting, the committee discussed the scope of the committee's mission, locations of public hearings around the state, and surveys of the industry and courts to gather issues for further review by the committee.

Surveys of Bail Bond Industry and Courts

To assist the committee in identifying issues for discussion, the department sent a survey to all individuals licensed under Sections 374.695 to 374.789, RSMo. The cover letter for this survey also served as notice to all licensees as required in HB 577 of notice for public hearings and where to sign up for e-mail notifications of the hearings on the department Web site. The department sent 1,041 surveys and 264 responses were returned. Survey responses were received from 90 general bail bond agents, 168 bail bond agents, 3 surety recovery agents and two others who did not indicate their occupation. Results of the survey were tallied and shared with the committee at its first meeting to begin the discussion on the various issues. Key issues from the survey are included in the Summary of Issues Identified by the Bail Bond Study Committee later in this report.

It was suggested during the first meeting of the committee that a similar survey be sent to the circuit courts to identify issues the courts would like to see addressed. Pursuant to this suggestion, a survey was sent by the Office of State Courts Administrator to 334 circuit and associate circuit judges in the state. The department received 77 responses. Of the responses received, 47 were from associate circuit judges and 30 were from circuit judges. The issues identified by the courts are also included in the Summary of Issues Identified by the Bail Bond Study Committee.

Committee Public Hearings and Meetings

The committee held four public hearings in October and November 2009. The first hearing was held on October 20, 2009, at the Missouri Department of Transportation's Office in Lee's Summit. In addition to committee members and department staff, there were 30 in attendance with eight individuals providing testimony to the committee.

The committee held its second hearing on October 27, 2009, at the Missouri Department of Transportation's Management Center in Chesterfield. In addition to committee members and department staff, there were 14 in attendance with six individuals providing testimony to the committee.

The committee held its third hearing on November 3, 2009, at the Missouri Conservation Department Office Building in Springfield. In addition to committee members and department staff, there were 23 in attendance with five individuals providing testimony to the committee.

The committee held its final hearing on November 10, 2009, at the Capitol Building in Jefferson City. In addition to committee members and department staff, there were 26 in attendance with 12 individuals providing testimony to the committee.

The committee also received written testimony from four individuals.

At the conclusion of the public hearings, the committee held three additional meetings to develop recommendations and draft a final report and legislative language. These meetings were held in Jefferson City on November 17, November 24 and December 17, 2009.

Other States

The committee researched a number of other states that have strengthened their bail bond laws in recent years. Florida, Arkansas and Colorado were referenced in a number of the survey responses and public testimony. The committee also looked to Virginia and Texas statutes for sample forms for the financial pre-approval requirements of the bond agents.

Summary of Issues Identified by the Bail Bond Study Committee

- Prohibiting felons from licensure
- Additional requirements for general bail bond agent licensure - test, years as BBA
- Increase initial training requirement and approve CE providers
- Centralized, consistent financial pre-approval of property bail bond agents
- Increase amount allowed for certificate of deposit held by department
- Standard timeframe for forfeitures and judgments
- Increase fines and penalties for violations of laws
- Standardized power of attorney
- Bail bond regulatory board
- Approval process for bail bond agents moving from one general agent to another
- Cash bonds and 10% bonds by courts
- GED or high school diploma as requirement for licensure
- Bail bond licensees employed in a location where detainees are held
- Define bail bond business and what activities require licensure
- Compliance with HB 600 state income tax provisions

Issue 1: Prohibiting felons from licensure

Prior to passage and implementation of SB 1122 in 2004, if an applicant had entered a plea of guilty or been found guilty of a felony, there was cause for denial of a license. SB 1122 amended this restriction to “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;”.

Survey responses from the courts and industry support the removal of the 15-year provision. Of the 264 industry surveys received, 211 indicated that the 15-year provision should be eliminated. Of the 77 court survey responses received, 70 indicated that the 15-year provision should be eliminated. A number of witnesses at public hearings also supported prohibiting licensure of felons.

Florida and Arkansas prohibit licensure of felons, and Florida suspends the license of anyone charged with a felony.

Bail Bond Study Committee Recommendation

The committee voted unanimously in favor of eliminating the current provision which allows a new applicant who has not had a felony in the last 15 years to become licensed as a bail bond agent. Committee voted 10 to 1 in favor of prohibiting new applicants who have a conviction or Suspended Imposition of Sentence (SIS) for a felony from being eligible for licensure.

Issue 2: Additional requirements for general bail bond agent licensure

Current bail bond law requires applicants for general bail bond licensure to maintain their licenses as bail bond agents for at least two years before becoming eligible. Bail bond industry survey responses reflected that 85 individuals felt the current two year requirement is sufficient. There were 156 responses that indicated the two-year requirement should be increased. This issue was discussed at all four of the public hearings and the most frequently suggested requirement was four years as a licensed bail bond agent. While the survey only addressed the two-year requirement, a number of witnesses provided testimony centered on increasing the qualifications for licensure in order to discourage those who were entering the business to “make a quick buck” and did not have the necessary experience or knowledge. After a lengthy discussion, the committee recommended requiring an additional examination for general bail bond agents that would test the applicant on general bail bond business practices and knowledge of the collateralizing of bonds, court procedures, forfeiture and judgment provisions, as well as reporting requirements and financial qualifying of assets.

Bail Bond Study Committee Recommendation

Committee voted unanimously in favor of adding a testing requirement to the licensing qualifications for a general bail bond agent and increasing the length of time from 2 years to 4 years as a bail bond agent before applying for a general bail bond license.

Issue 3: Increase initial basic training requirement and department approval process for CE providers

Current law requires, prior to the application process, bail bond and surety recovery agent applicants to complete 24 hours of initial basic training. Additionally, all licensed general bail bond, bail bond and surety recovery agents must complete eight hours of biennial continuing education. Bail bond survey responses were divided 155 to 92 against increasing the initial basic training requirement. The survey responses did indicate additional training was needed for new licensees in the form of a one-year internship before full licensure by a vote of 133 to 131 in favor of a temporary one-year license. Public testimony at all four public hearings encouraged increasing initial basic training with a number of individuals suggesting the equivalent of law enforcement training requirements. Public testimony also expressed that the department needs to

perform a more thorough review of classes offered by the training providers and to approve the class instructors in addition to the approval of class curriculum. Committee members expressed that additional training is needed but that existing training, both initial and continuing education, is not always of the highest quality and often viewed by those attending as a waste of time and resources. Committee members expressed desire for the department to more actively monitor initial training and continuing education classes as well as establish an approval process for instructors in addition to approval of class curriculum.

Bail Bond Study Committee Recommendation

Committee voted 9 to 0 with 1 abstaining to increase initial basic training from 24 hours to 40 hours and by the same vote to leave the continuing education requirement at eight hours per biennial licensure period; additionally, the department should by rule develop approval process for instructors, require classroom setting for all instruction and actively monitor classes for following approved curriculum.

Issue 4: Centralized consistent financial pre-approval of property bail bond agents

This was one of the most frequently identified issues during the course of the committee's study. Survey questions did not raise the issue specifically but responses were received pursuant to the question, "Do you think the current bail bond system in Missouri needs to be changed?" Seventeen written responses concerning consistency in being financially approved with the courts were received. Some written responses were quite lengthy with examples from various courts in which licensees write bonds. The survey sent to the courts included the question, "Should the department play a role in tracking a general bail bond agent's assets and liabilities?" Judges responded 54 to 16 in favor of the department taking a role in tracking of assets and liabilities. In public hearing testimony the committee heard from several court administrators who felt the existing laws were not clear and were not being enforced consistently across the state. Committee members representing the judiciary and court administrators expressed concern over the workload financial approval of agents would put on the already stressed court system. Industry members stated submission of paperwork to multiple jurisdictions on varying schedules and with different requirements also creates a burden for the industry. Committee members representing the court administrators indicated they did not have the capacity to perform financial approval for all counties centrally within the Office of State Courts Administrators. Department personnel suggested adding the financial approval of agents to the existing structure of financial review of insurance companies. Committee members felt the department would be better equipped to absorb this responsibility in consideration of the substantial additional resources that would be required by the courts if they were to perform financial approval in each jurisdiction. The committee had lengthy discussions on what assets, reporting, ratios, limits and fees should be used for the process. Committee agreed department should make a pre-approved list available to the courts at least monthly.

Bail Bond Study Committee Recommendation

Committee voted unanimously that a centralized system of financial approval of agents should be established.

Committee voted unanimously that DIFP become the centralized financial approval agent.

Committee voted unanimously on quarterly filing of financial paperwork (once per year will require more documentation) with the flexibility to allow the department to request monthly, if needed.

Committee voted unanimously to deem cash, certificates of deposits and real estate as allowable assets. Any other assets would require approval by department.

Committee voted unanimously to require appraisals from an appraiser licensed in Missouri and to allow use of a tax statement, if an appraisal was not available.

Committee voted unanimously for a \$50.00 filing fee to be remitted to the department for the submission of quarterly financial filings.

Committee voted unanimously to increase the application and renewal fee for all licensees to \$300.00.

Committee voted unanimously to require submission of monthly outstanding bond reports to the department.

Committee voted unanimously to use a ratio of 15 to 1 as for cap on bonds written to assets pledged.

Committee voted unanimously to set a limit on any single bond written at 50% of total assets pledged. Courts would be allowed to approve higher bonds at their discretion.

Issue 5: Increase certificate of deposit held by department

Current law requires each applicant for licensure as a general bail bond agent post a duly executed assignment of ten thousand dollars to the state of Missouri. Bail bond survey responses, in addition to written comments included with the survey, expressed that increasing the deposit held by the department did not help with unsatisfied judgments to the courts. The deposit held by the department is generally released to the courts only when the licensee has gone out of business. Under the existing system of qualifying in individual courts, the possibility for the unsatisfied judgments to exceed any deposit held by the department is almost assured. If agents were required to qualify centrally, those assets pledged as security should be sufficient and the deposit would not need to be increased. Committee members also discussed the existing language that already allows the department to increase the deposit up to \$25,000, if the circumstances of the business of the general bail bond agent warrant additional funds.

Bail Bond Study Committee Recommendation

Committee voted 6 to 3 with 1 abstaining in favor of increasing the maximum deposit currently in statute from \$25,000 to \$50,000 with the minimum required bond amount to remain at \$10,000.

Issue 6: Standard timeframe for forfeitures and judgments

The comments included on the survey responses as well as public hearing testimony indicate that the existing statutes in Missouri for forfeiting a bond have been a source of confusion, not only for the bail agent, but for the courts as well. The committee researched several other states and reviewed how the bond forfeiture process varied within the state of Missouri. Missouri courts varied in the time allowed from ten days to over one year before the full bond amount is due the court. Most courts do not record a civil judgment against the general bail bond agent in a bond forfeiture, thereby allowing the general to show the asset as unencumbered and use the asset to establish a new general bonding company. The committee had lengthy discussions on the need for a standardized and appropriate timeframe. The committee agreed that the Greene County Circuit Court system currently in place allowing the bond agents 90 days before judgment is entered and another 90 days if the full amount of the bond is posted provided a very workable bond forfeiture schedule for both the court and the bond agent. The committee felt it was important to allow courts flexibility in extending forfeiture periods as the desired result is always for the defendant to be recovered and to appear in court. The committee also felt it was important to allow sufficient time for the agents to recover the defendant. The committee recognized that tracking the bond forfeitures will require additional work for the courts, but their recommendations call for automation to assist in this process. The committee felt the benefits of tracking the forfeitures (i.e. higher appearance rates, increased forfeiture revenue for the schools and for the municipalities and holding all general bond agents to the same standards) offset what hopefully will be minimal additional tracking if automation is maximized.

The committee pointed out that Missouri law allows a municipality to file a forfeiture in circuit or associate circuit court.

479.210. In case of a breach of any recognizance entered into before a municipal judge or an associate circuit judge hearing a municipal ordinance violation case, the same shall be deemed forfeited and the judge shall cause the same to be prosecuted against the principal and surety, or either of them, in the name of the municipality as plaintiff. Such action shall be prosecuted before a circuit judge or associate circuit judge, and in the event of cases caused to be prosecuted by a municipal judge, such shall be on the transcript of the proceedings before the municipal judge. All moneys recovered in such actions shall be paid over to the municipal treasury to the general revenue fund of the municipality.

Bail Bond Study Committee Recommendation

Committee voted 10 to 1 in favor of allowing 90 days from a defendant's failure to appear until bond forfeiture is entered, unless a bond forfeiture hearing is requested by the bail bond agent. Committee voted 10-1 in favor of allowing a 90-day minimum extension on judgment if the full amount of the bond is tendered to the court while allowing for courts to extend the final judgment without tender for good cause. The committee voted unanimously that the following be deemed good cause: (1) The defendant is incarcerated somewhere in the United States and is unavailable for return to the court; (2) The defendant was incarcerated somewhere in the United States after the date the defendant fails to appear and prior to the date of final judgment; (3) The defendant is

being held in another jurisdiction and the bail bond agent asks the court for leave to return the defendant to the court issuing the warrant; (4) The defendant has been deported; (5) The death of the defendant; and (6) Other just causes accepted by the court. The committee also voted unanimously that 30 days after final judgment the court shall distribute the amount tendered in accordance with the laws.

If the amount has not been tendered, the committee recommended that the courts immediately record the forfeiture in the same manner as a transcript judgment. If the forfeiture is in a municipal division, the committee recommended that the municipality follow the procedure prescribed in 479.210, RSMo and immediately file an action in circuit court. The committee recommended changes to JIS, the case management system for state courts and 40 municipal courts, so that judgments are automatically recorded at the end of 90 days, unless the above conditions were met. Many of the municipalities use similar software systems and it was the committee's recommendation that with a standardized procedure, the software systems can be modified so the process is as automated as possible. The committee emphasized that this is a compromise, an attempt with a standard procedure to allow the bond agent time to find and deliver the defendant and provide the court assurance that the bond would be forfeited in due time if the defendant cannot be located.

Issue 7: Increase fines and penalties for violations of laws

The bail bond survey questions did not address increasing the fines and penalties for violations. Testimony that this was needed was included at each of the public hearings. Hearing comments revolved around the central idea that the department be granted stronger enforcement authority and levy fines in amounts that serve as deterrents to further violations of bail bond laws. The committee members were in agreement that it was not enough to pass the laws but also that they need to address the violations and provide the department with sufficient resources to carry out the enforcement.

Bail Bond Study Committee Recommendation

Committee voted unanimously that the department needed increased fines and increased resources for enforcement.

Issue 8: Standardized power of attorney

Public hearing testimony and committee discussions supported the creation of a standardized power of attorney form. This template, which the general bail bond agents could produce themselves, would provide courts with consistent information and assist courts in identifying fraudulent powers of attorney. A consistent and complete power of attorney form would also assist the courts in notifying agents when forfeitures occur.

Bail Bond Study Committee Recommendation

Committee voted unanimously for the power of attorney to be in the form and manner prescribed by the department with the understanding that such format, as opposed to the form itself, would be provided by the department.

Issue 9: Bail bond regulatory board

The industry and court surveys did not address the issue of a bail bond regulatory board. Public hearing testimony raised the issue of creating a professional licensing regulatory board within the department's Division of Professional Registration. Staff from the Division of Professional Registration provided a presentation to the committee on the process and costs involved with establishing a regulatory board. Board members would be appointed, not elected by the industry. Each professional board is required to pay its own expenses of operation including, but not limited to licensing activities, legal costs and a proportionate share of administrative support staff. Legal representation for the board would be provided by the Attorney General's Office and the board would be billed for costs associated with such representation. The committee compared estimated costs of continued regulation by the department versus regulation by an appointed board. The committee also discussed establishing an advisory board to the department, which would be appointed by the director.

Bail Bond Study Committee Recommendation

Committee voted 7 to 2 in favor, with 1 abstaining, for the establishment of an advisory group rather than a regulatory board. Committee then voted 9 to 2 in favor of having the advisory group be an ad hoc (not in statute) advisory group called together by the department as needed.

Issue 10: Approval process for bail bond agents moving from one general agent to another

Industry survey responses indicated by a tally of 148 to 95 that a bail bond agent should be required to obtain a release from his/her current general bail bond agent prior to working for a new general bail bond agent. This would allow the former general agent to ensure all powers of attorney were accounted for and all funds were received as required. While there was limited public testimony on this issue, one written testimony referenced the Florida statute that provides for an appointment approval process to be used when a bail bond agent changes from one general agent to another. The committee, after much discussion, was still split on whether it should remain a contractual issue between the general agent and bail bond agent or if there is a need to require department involvement. The department currently has authority to take disciplinary action against a licensee if, after an investigation, a bail bond agent is proven to not have accounted for all powers of attorney and funds.

Bail Bond Study Committee Recommendation

Committee voted 4 to 5 with 1 abstaining that the department not be involved in approving the transfer of an agent from one general to another. Committee encouraged department to take disciplinary action on those found guilty of not accounting for all funds and POAs.

Issue 11: Cash and 10 percent bonds by courts

The industry survey did not address the issue of cash and 10 percent bonds by the courts. The court survey reflected that 74 judges allow cash bonds, 68 allow 10 percent bonds and 70 allow secured bonds. Almost all courts allow 10 percent and cash bonds. The public hearing testimony and committee discussion indicated that the courts use 10 percent and cash bonds for numerous reasons including jail populations, cost of housing defendants in jail, traffic violations where the cash bond covers any fines and court costs thus eliminating the need for the defendant to appear, and due to circumstances under which a public defender will not represent a defendant who posts a bond equal to \$5,000 or more. Other public hearing testimony indicated it was unfair to the school funds for the courts not to have to pay the full bond amount when forfeiture occurred. Public hearing testimony cited that bail bond agents have a vested interest in recovering the defendant after failure to appear.

Bail Bond Study Committee Recommendation

Committee voted 10 to 0 with one abstaining to include language that in all cases where the court has set a bond requiring a percentage deposit, such bond may be satisfied by any licensed surety guaranteeing said bond by posting a surety bond in the full face amount of the bond.

Issue 12: GED or high school diploma as requirement for licensure

Current bail bond law requires applicants for general bail bond, bail bond, and surety recovery agent licensure to possess a high school diploma or general education development certificate (GED). Written testimony was received requesting that the high school diploma/GED requirement for licensing be reconsidered. Prior to passage of SB 1122 in 2004, a high school diploma or GED was not required. With passage of SB 1122, those who were currently licensed were grandfathered in and any new licensees were required to have either a high school diploma or GED from a program credentialed by the Missouri Department of Elementary and Secondary Education (DESE). Committee discussion emphasized the wide availability of GED classes and also that DESE now makes available online classes and testing so it is readily accessible. Committee members did not support allowing online GEDs from entities other than DESE.

Bail Bond Study Committee Recommendation

Committee voted 8 to 2 in favor of keeping the GED or high school diploma requirement for licensure. Committee voted 9 to 1 in favor of accepting only DESE credentialed GED classes.

Issue 13: Bail bond licensees employed in a location where detainees are held

The department brought to the committee the issue of current language allowing licensees to work in the physical location of a jail as long as the licensee was not employed directly by the jail. This situation allows a loophole in which jails which might house other county or municipal activities could have licensees working in the jail without being an actual employee of the jail. Committee

expanded this discussion to include not only employees but also contractors and volunteers. Discussion was also expanded to include the courts and law enforcement agencies, as well as jails.

Bail Bond Study Committee Recommendation

Committee voted unanimously to prohibit employees, contractors, and volunteers of the court, law enforcement agency, or jail from being licensed as bail bond agents or general bail bond agents. This prohibition includes any employee, contractor or volunteer who works at a jail, law enforcement agency or court.

Issue 14: Define bail bond business and what activities require licensure

Committee members heard public testimony of instances where individuals who were not licensed were performing activities that should be considered bail bond business and require licensure. These activities included solicitation, completing bond contracts, investigative activities and recovery work. Committee had discussions on how to define bail bond business to address these circumstances but felt department would have more success in defining bail bond business and activities in regulations rather than in statute.

Bail Bond Study Committee Recommendation

Committee voted unanimously that bail bond business as currently used in statutes needed to be defined and should include: solicit, interview, contractually bind or otherwise physically engage in the writing of bonds. Committee voted unanimously that the department should include the definition in regulations rather than statute.

Issue 15: Compliance with HB 600 state income tax provisions

The department brought before the committee the fact that most other professional licensees fell under the provisions of Section 324.010, RSMo, passed as part of House Bill 600 (2003). This section mandates that all governmental entities issuing professional licenses, certificates, registrations, or permits pursuant to various statutes notify the Department of Revenue (DOR) before renewing a those licenses. If DOR determines there is a delinquency or failure to file income taxes, the applicable department is informed and the license is suspended. Laws pertaining to licensure of the bail bond industry are not currently included in this section of statutes and, thus, not subject to this requirement.

Bail Bond Study Committee Recommendation

Committee voted unanimously in favor of extending HB 600 provisions to bail bond licensees.

Appendix – proposed legislative language

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, **or** 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. **No employee, contractor, or volunteer of a court, law enforcement agency, or anyone employed at the location of a jail shall be licensed as a bail bond agent or general bail bond agent. This provision shall not apply to an attorney whose license status is inactive.**

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 **and** [or] insurer. **The power of attorney shall be in the form and manner prescribed by the director.**

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

5. A corporation, partnership, association, limited liability company, limited liability partnership, or other legal entity shall not apply for a general bail bond agent license unless operating as a surety bail bond agent.

6. [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 374.775; or

(2) Except through an agent licensed as a bail bond agent pursuant to sections 374.695 to 374.775.

7. [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.

8. [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.

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

2. The director shall set the amount of all fees authorized and required by the provisions of sections 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 374.695 to 374.789. However, such fees shall not exceed **three hundred** *[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. **Fees for filing quarterly financial statements shall not exceed fifty dollars per filing.**

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

2. An applicant for a bail bond and general bail bond agent license shall submit with the application proof that he or she has received **forty** *[twenty-four]* hours of initial basic training in areas of instruction in subjects determined by the director deemed appropriate to professionals in the bail bond 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 **forty** *[twenty-four]* hours of initial basic training.

3. In addition to the **forty** *[twenty-four]* 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 director shall determine which institutions, organizations, associations, and individuals shall be eligible to provide the initial basic training and the biennial continuing education instruction. The department may allow state institutions, organizations, associations, or individuals to provide courses for the initial basic training and the biennial continuing education training. *[The cost shall not exceed two hundred dollars for the initial basic training and one hundred fifty dollars for biennial continuing education].*

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 **three hundred***[one hundred fifty]* dollars.

5. Nothing in sections 374.695 to 374.775 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 **has not had a final adjudication or a plea of guilty or nolo contendere 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** *[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. **Bail bond agents and general bail bond agents who are licensed at the date which this act becomes law shall be exempt from the requirement of not having a final adjudication or a plea of guilty or nolo contendere 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.**

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, **partnership, association, limited liability company, limited liability partnership, or other legal entity**, that each officer thereof has completed at least **four** *[two]* years as a bail bond agent, and that the applicant *[possesses liquid]* **has transferred to and deposited with the department, for the security of its outstanding surety bond obligations**, assets of at least ten thousand dollars, *along with a duly executed assignment of ten thousand dollars to the state of Missouri. The assignment shall become effective upon the applicant's violating any provision of sections 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.]* **in the financial institution of the department's choosing. Such deposits shall be in the form of cash, certificates of deposit, bonds or treasury notes issued by the United States, bonds of the state of Missouri, or bonds of any school district or political subdivision of this state, and in all cases not to be received at a rate above their par value, nor above their current market value.** The director may require by regulation conditions by which additional *[assignments of]* assets of the general bail bond agent may **be required** *[occur]* when the circumstances of the business of the general bail bond agent warrant *[s]* additional funds. However, such additional funds shall not exceed **fifty** *[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 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 **general bail bond agent** *[licensee]* shall provide to the **parties** *[principal]* a copy of the bail contract **and receipts for any funds paid.**

3. For every bond written in this state in which the premium is financed by the licensee, the licensee shall provide, in writing, to all parties of the contract the following:

- (1) the bond amount;**
- (2) the premium amount agreed to by all parties;**
- (3) the terms of the financial agreement;**
- (4) a receipt for the acceptance of any money; and**
- (5) date and signatures of all parties to the contract.**

374.720. 1. Each applicant for licensure as a general bail bond agent, after complying with this section and the provisions of section 374.715, shall [*be issued a license by the department unless grounds exist under section 374.755 for denial of a license.*] **appear for examination at the time and place specified by the department. Such examination shall be as prescribed by the director as provided under section 375.018, RSMo, and shall be designed to test the applicant's knowledge and expertise in the area of surety bonds in general and the practice of a general bail bond agent, as defined in sections 374.700 to 374.775, in particular. The applicant shall be notified of the result of the examination within twenty working days of the examination. Any applicant who fails such examination may, upon reapplication and payment of the reexamination fee set by the department, retake the examination.**

2. Each applicant for examination and licensure as a bail bond agent, after complying with the provisions of section 374.715, shall appear for examination at the time and place specified by the department. Such examination shall be as prescribed by the director as provided under section 375.018, RSMo, and shall be designed to test the applicant's knowledge and expertise in the area of surety bonds in general and the practice of a bail bond agent, as defined in sections 374.700 to 374.775, in particular. The applicant shall be notified of the result of the examination within twenty working days of the examination. Any applicant who fails such examination may, upon reapplication and payment of the reexamination fee set by the department, retake the examination.

374.730. **1.** 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 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.

2. The department shall provide the director of revenue with the name and social security number of each bail bond agent, general bail bond agent, or surety recovery agent applicant for licensure or each bail bond agent, general bail bond agent, or surety recovery agent licensee applying for renewal within one month of the date the application is filed or at least one month prior to the anticipated renewal of the bail bond agent's, general bail bond agent's, or surety recovery agent's license. If such applicant or licensee is delinquent on any state taxes or has failed to file state income tax returns in the last three years, the

director of revenue shall then send notice to each such entity and licensee. In the case of such delinquency or failure to file, the applicant's or licensee's license shall be revoked within ninety days after notice of such delinquency or failure to file, unless the director of revenue verifies that such delinquency or failure has been remedied or arrangements have been made to achieve such remedy. Tax liability paid in protest or reasonably founded disputes with such liability shall be considered paid for the purposes of this section.

374.740. Any person applying to be licensed as a 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 the department of insurance, financial institutions and professional registration as to his or her compliance, and accompany his or her application with the fees set by the director by regulation. **Nonresident general bail bond agents shall also transfer and deposit with the department, for the security of its outstanding surety bond obligations, assets of** [*and, if applying for a nonresident general bail bond agent's license, with a duly executed assignment of*] twenty-five thousand dollars. **These assets shall be held in a Missouri financial institution of the department's choosing. Such deposits shall be in the form of cash, certificates of deposit, bonds or treasury notes issued by the United States, bonds of the state of Missouri, or bonds of any school district or political subdivision of this state, and in all cases not to be received at a rate above their par value, nor above their current market value.** [*to the state of Missouri, which assignment shall become effective upon the applicant's violating any provision of sections 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.*] **The director may require by regulation conditions by which additional assets of the general bail bond agent may be required when the circumstances of the business of the nonresident general bail bond agent warrant additional funds. However, such additional funds shall not exceed fifty thousand dollars.** All licenses issued pursuant to this section shall be subject to the same renewal requirements set for other licenses issued pursuant to sections 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 374.695 to 374.775 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 374.695 to 374.775;

(2) 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 or in obtaining permission to take any examination required pursuant to sections 374.695 to 374.775;

(4) Obtaining or attempting to obtain any compensation as a member of the profession licensed by sections 374.695 to 374.775 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, **financial irresponsibility, untrustworthiness**, misconduct, gross negligence, fraud, or misrepresentation in the performance of the functions or duties of the profession licensed or regulated by sections 374.695 to 374.775;

(6) Violation of any provision of or any obligation imposed by the laws of this state, department of insurance, financial institutions and professional registration 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 374.695 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 374.695 to 374.789 who is not currently licensed and eligible to practice pursuant to sections 374.695 to 374.789;

(11) Acting in the capacity of an attorney at a trial or hearing of a person for whom the attorney is acting as surety;

(12) Failing to provide a copy of the bail contract, **p**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.

(13) Submitting a fraudulent, deceptive, or misleading financial statement or statement of outstanding bonds to the department or a court in this state.

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 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 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 374.695 to 374.789[75] 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 **cause for discipline under** [violation of] section 374.755 **or 374.787** 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.

374.760. 1. Each **property** [general] bail bond agent shall file, **with the initial application for licensure and annually with the March 31 quarterly financial statement thereafter, the following information:**

(1) A financial statement in a form as determined by the department to be used as proof of security for bail bonds written in this state. [*between the first and tenth day of each month, sworn affidavits with the department stating that there are no unsatisfied judgments against him.*] **Acceptable assets for security consist of the following:**

(A) Real estate located in the state of Missouri;

(B) Certificates of deposit issued by a FDIC-insured or NCUA-insured financial institution located in the state of Missouri or cash held on deposit by such institutions;

(C) Amounts of joint deposit in accordance with 374.715.2 or 374.740; or

(D) Any asset that is not in the form of real estate, cash, or certificates of deposit issued by a FDIC-insured or NCUA-insured financial institution that has been specifically approved by the department. [*Such statement of assets affidavits shall be in the form and manner prescribed by the department.*]

(2) If the property used as an asset is real estate the general bail bond agent shall submit to the department:

(A) A complete real estate appraisal conducted within the last two years by a Missouri licensed real estate appraiser showing the total market value of the property and a general description of such property or a true copy of the current real estate tax assessment thereof;

(B) An ownership and encumbrance report from a Missouri licensed title company; and

(C) When applicable, a copy of the mortgage statement from any federal or state financial institution showing the amounts due under any obligations secured by liens or similar encumbrances against the real estate, including any delinquent taxes, within one year of the date of submission. At its discretion, the department may require additional documentation to verify these amounts.

(3) Each general bail bond agent shall notify the director within 10 days of any transfer or encumbrance of real estate included in the general bail bond agent's statement of assets.

(4) If the property used as an asset is a certificate of deposit or cash, a true and complete copy of a bank statement or other documentation from a financial institution dated within one month of the date of submission showing the value of the account shall be submitted as verification.

2. Each general bail bond agent shall file within thirty (30) days of the end of each calendar quarter after initial licensure as a general bail bond agent or more often if so directed by the department, a quarterly financial statement. Each general bail bond agent shall file a statement of outstanding bonds with the department within five (5) days of the first day of each month. Such statement of outstanding bonds shall be in the form and manner prescribed by the department. Failure to file the quarterly financial statement or monthly statement of outstanding bonds will result in immediate removal of the general bail bond agent from the pre-approved list of general bail bond agents and is a cause to file a complaint against the general bail bond agent under section 374.755.

(1) To verify the value of the quarterly reported assets and liabilities, the general bail bond agent shall submit copies of the monthly bank statements reporting the value of the reported certificates of deposit and cash balances received since the initial application or prior quarterly financial statement filed with the department. The general bail bond agent may, at his or her discretion, submit updated appraisals as often as desired to support the market value of the real estate.

(2) The amount of bonds a general bail bond agent may issue shall not exceed the limitations set forth in subsections three and four of this section. The department may, at its discretion, request copies of all issued bonds reported on the statement of outstanding bonds.

3. The director shall provide a list to the courts of all pre-approved general bail bond agents in a form and manner prescribed by the director on at least a monthly basis. A general bail bond agent shall be pre-approved to write outstanding bonds totaling fifteen times the general bail bond agent's assets less encumbrances. When the amount of a general bail bond agent's outstanding bonds is equal to or greater than fifteen times the general bail bond agent's assets less encumbrances, the general bail bond agent will be removed from the pre-approved list until the general bail bond agent can demonstrate to the department that either the amount of outstanding bonds has been reduced below fifteen times the amount of the general bail bond agent's assets or that additional assets have been secured to allow outstanding bonds to fall below fifteen times the amount of the general bail bond agent's assets. Such additionally secured assets shall be submitted on a revised quarterly financial statement with the appropriate supporting documentation. The department shall update the pre-approved list of general bail bond agents on at least a monthly basis.

4. The value of any one bond issued shall not exceed 50% of the general bail bond agent's secured assets less encumbrances unless specifically approved by the court. The general bail bond agent shall, within 10 days of such issuance, notify the department and provide a copy of the bond and court approval.

5. Intentionally providing fraudulent, deceptive, or misleading financial statements or statements of outstanding bonds to the department or a court in this state is a class D felony.

374.763. 1. If a bond is posted by a surety, who charges or receives compensation for signing a bond, and the defendant fails to appear at a required court appearance, the court shall immediately issue a warrant for arrest for the defendant, and shall enter a bond forfeiture in favor of the state or municipality and against the general bail bond agent and insurer as defined herein. The bond agent shall be allowed at least ninety days after the defendant's failure to appear before a forfeiture shall be considered a final judgment, subject to the provisions set forth below. The forfeiture automatically becomes a final judgment on the ninetieth day unless the court extends the time for final judgment entry. The clerk of the court shall immediately provide notice of the forfeiture order to the general agent or insurer to the address on file with the court. This section shall apply to all divisions of the circuit court hearing such matters, including municipal divisions.

2. Upon request, at any time, of the bondsman, the clerk of the court shall, for the usual cost for certified copies, provide a certified copy of the bond to the general bail bond agent, bail bond agent or surety recovery agent.

3. The court shall extend the date for entry of final judgment no less than 90 additional days, if the bondsman tenders to the court the full amount of the criminal appearance bond.

4. The forfeiture order shall be set aside, if before final judgment or within 30 days after the date of final judgment, the general bail bond agent establishes:

(1) The defendant is incarcerated somewhere in the United States and is unavailable for return to the court;

(2) The defendant was incarcerated somewhere in the United States after the date defendant fails to appear and prior to the date of final judgment;

(3) The defendant is being held in another jurisdiction and asks the court for leave to return the defendant to the court issuing the warrant;

(4) The defendant has been deported;

(5) The death of the defendant; or

(6) Other just causes accepted by the court.

5. When the judgment under this section is final, the clerk of the court shall immediately notify the department. Except in municipal divisions, when the judgment is final, the clerk of the court shall file a copy of the final judgment in the office of the clerk of the circuit court. The clerk of the circuit court shall file such judgment and enter it in the record of the circuit court for judgments and decrees under the procedure prescribed for filing transcripts of judgments.

6. Unless notice of appeal of the final judgment is filed, thirty days after final judgment, the court shall distribute the amount tendered in accordance with the law and notify the department of the satisfaction. If notice of appeal is filed, the amount tendered shall not be distributed, and shall remain as tendered to the court pending appeal.

[If any final judgment ordering forfeiture of a defendant's bond is not paid within a six-month period of time, the court shall extend the judgment date or notify the department of the failure to satisfy such judgment.]

7. Thirty days after final judgment, if the bond forfeiture has not been paid, the general bail bond agent's authorization to write bail bonds in the State of Missouri shall immediately be suspended until that judgment has been satisfied, vacated, or otherwise discharged by order of the court and t[T]he 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, regarding the license of the surety and any bail bond agents writing upon the surety's liability. The department shall notify the courts when a general bail bond agent's authorization to write bail bonds in the State of Missouri has been suspended and when it has been reinstated.

8. Thirty days after final judgment, if an insurer fails to pay a bond forfeiture, the insurer's authorization to transact surety business in the State of Missouri shall immediately be suspended until that judgment has been satisfied, vacated, or otherwise discharged by order of the court. The department shall notify the courts when an insurer's authorization

to transact surety business in the State of Missouri has been suspended and when it has been reinstated.

[2.]**9.** 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.]**10.** 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 as provided in rules promulgated by the supreme court of Missouri and not by any circuit court rule. **In all cases where the court has set a bond requiring a percentage deposit, a licensed surety may satisfy such bond by posting a surety bond in the full face amount of the bond.**

374.766. 1. If the director determines that a person has engaged in or is engaging in an act, practice or course of business constituting a violation of sections 374.702 to 374.789 or a rule adopted or order issued or pursuant thereto, or that a person has materially aided or is materially aiding an act, omission, or course of constituting a violation of sections 374.702 to sections 374.789, or a rule adopted or order pursuant thereto, the director may issue such administrative orders as authorized under section 374.046, RSMo. A violation of sections 374.702, 374.710, 374.716, 374.719, 374.775, 374.783, and 374.789 is a level two violation under section 374.049. A violation of sections 374.717 and 374.757 is a level three violation under section 374.049. A violation of section 374.788 is a level four violation under section 374.049.

2. If the director believes that a person has engaged in or is engaging in an act, practice or course of business constituting a violation of this section or a rule adopted or order issued pursuant thereto, or that a person has materially aided or is materially aiding an act practice, omission, or course of business constituting a violating of this section or a rule adopted or order issued pursuant thereto, the director may maintain a civil action for relief authorized under section 374.048, RSMo. A violation of sections 374.702, 374.710, 374.716, 374.719, 374.775, 374.783, and 374.789 is a level two violation under section 374.049. A violation of sections 374.717 and 374.757 is a level three violation under section 374.049. A violation of section 374.788 is a level four violation under section 374.049.

374.770. [1.If there is a breach of the contract of the bond, the court in which the case is pending shall declare a bond forfeiture, unless the surety upon such bond informs the court that the defendant is incarcerated somewhere within the United States. If forfeiture is not ordered because the defendant is incarcerated somewhere within the United States, the surety is responsible for the return of the defendant. If bond forfeiture is ordered and the surety can subsequently prove the defendant is incarcerated somewhere within the United States, then the bond forfeiture shall be set aside and the surety be responsible for the return of the defendant. When the surety notifies the court of the whereabouts of the defendant, a hold order shall be

placed by the court having jurisdiction on the defendant in the state in which the defendant is being held.

2.]In all instances in which a bail bond agent or general bail bond agent duly licensed by sections 374.700 to 374.775 has given his bond for bail for any defendant who has absented himself in violation of the condition of such bond, the bail bond agent or general bail bond agent shall have the first opportunity to return such defendant to the proper court. If he is unable to return such defendant, the state of Missouri shall return such defendant to the proper court for prosecution, and all costs incurred by the state in so returning a defendant may be levied against the bail bond agent or general bail bond agent in question.

374.775. *[When issuing bonds of one thousand dollars or less, licensed bail bond agents or general bail bond agents may charge a minimum premium of fifty dollars. In connection with such]* **For bonds of one thousand dollars or less, except for the initial premium agreed to,** no bail bond agent, general bail bond agent, or corporation shall charge or receive any additional fee for investigations or services rendered in connection with the execution of the bond.

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 recovery 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*]**three hundred** 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 **forty** [*twenty-four*] 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 twenty-four 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 twenty-four 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 within the ten years prior to the application being submitted to the department.

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.

374.788. 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 **another** state to **within the state of Missouri**, and **from** 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.

4. For the purpose of surrender of the defendant, a bail bond 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.

Section A This bill shall be effective January 1, 2011.