

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

H.B. 171
Feb 22, 2023
HOUSE PRINCIPAL CLERK

H

D

HOUSE BILL DRH40083-NE-60

Short Title: Bail Bond Reform.-AB

(Public)

Sponsors: Representative Setzer.

Referred to:

A BILL TO BE ENTITLED
AN ACT TO MAKE VARIOUS CHANGES TO LAWS RELATING TO BAIL BONDSMEN,
AS RECOMMENDED BY THE DEPARTMENT OF INSURANCE.
The General Assembly of North Carolina enacts:

**PART I. CLARIFY ABROGATION OF COMMON LAW AND ALLOW
OUT-OF-STATE SURETIES TO USE LICENSED BONDSMEN**

SECTION 1.(a) Article 71 of Chapter 58 of the General Statutes is amended by
adding a new section to read:

"§ 58-71-2. Statement of purpose and abrogation of the common law.

The purpose of this Article is to provide a comprehensive framework for the regulation of all
persons acting in the capacity of professional bondsmen, surety bondsmen, or runners or
performing any of the functions, duties, or powers prescribed for professional bondsmen, surety
bondsmen, or runners within the State of North Carolina. Any part of the common law that
conflicts with the provisions of this Article is expressly abrogated."

SECTION 1.(b) G.S. 58-71-30 reads as rewritten:

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

(a) For the purpose of surrendering the defendant, the surety may arrest him before the
forfeiture of the undertaking, or by his written authority endorsed on a certified copy of the
undertaking, may request any judicial officer to order arrest of the defendant.

(b) A surety on a bail bond or undertaking from another state or jurisdiction may not
arrest the defendant in this State for the purposes of surrendering the defendant.

(c) Notwithstanding the provisions of subsection (b) of this section, a surety on a bail
bond or undertaking from another state or jurisdiction may utilize the services or assistance of
any surety bondsman, professional bondsman, or runner to effect the arrest or surrender of the
defendant. The surety must first provide the surety bondsman, professional bondsman, or runner
with a certified copy of the undertaking."

PART II. CHANGES TO PROVISIONAL LICENSING OF BONDSMEN

SECTION 2.(a) G.S. 58-71-1 reads as rewritten:

"§ 58-71-1. Definitions.

The following definitions apply in this Article:

...

(4a) ~~First year licensee.— Any person who has been licensed as a bail bondsman
or runner under this Article and who has held the license for a period of less
than 12 months.~~



* D R H 4 0 0 8 3 - N E - 6 0 *

(4b) Direct supervision. – Direction of a provisional licensee's activities by a supervising bail bondsman that involves personal and face-to-face contact on a frequent and reasonable basis.

...

(8) Professional bondsman. – Any person who is approved and licensed by the Commissioner and who pledges cash or approved securities with the Commissioner as security for bail bonds written in connection with a judicial proceeding and who receives or is promised money or other things of value in exchange for writing the bail bonds.

(8a) Provisional licensee. – Any person licensed as a bail bondsman or runner under this Article for a period of less than 24 months.

(8a)(8b) Resident. – A person who lives in this State for at least six consecutive months immediately before applying for a license under this Article.

...

(9a) Supervising bail bondsman. – Any person licensed by the Commissioner as a professional bondsman or surety bondsman ~~who~~ that (i) meets the requirements of G.S. 58-71-43 and (ii) employs or contracts with any new licensee under this Article.

...."

SECTION 2.(b) G.S. 58-71-41 reads as rewritten:

"§ 58-71-41. First-year Provisional licensees; limitations.

(a) Except as provided in this section, a first-year provisional licensee shall have the same authority as other persons licensed as bail bondsmen or runners under this Article. Except as provided in subsection (d) of this section, a first-year provisional licensee shall operate only under the direct supervision of and from the official business address of a licensed supervising bail bondsman ~~bondsman~~, who shall be responsible for the provisional licensee's acts, for the first 12 months ~~24 months~~ of licensure. A provisional licensee shall work from the same office as the provisional licensee's supervising bail bondsman. A first-year provisional licensee may only be employed by or contract with one supervising bail bondsman.

(b) When a first-year provisional licensee has completed 12-24 months of supervision, six of which shall be uninterrupted, the supervising bail bondsman shall give notice of that fact to the Commissioner in writing. If the licensee will continue to be employed by or contract with the supervising bail bondsman beyond the initial 12-month ~~24-month~~ period, the supervising bail bondsman shall continue to supervise and be responsible for the licensee's acts.

(c) If the employment of or contract with a first-year provisional licensee is terminated, the supervising bail bondsman shall notify the Commissioner in writing and shall specify the reason for the termination.

(d) If, after exercising due diligence, a ~~first-year licensed bail bondsman~~ provisional licensee is unable to become employed by or to contract with a supervising bail bondsman, the ~~first-year licensed bail bondsman~~ provisional licensee must submit to the Department a sworn affidavit stating the relevant facts and circumstances regarding the ~~first-year licensed bail bondsman's~~ provisional licensee's inability to become employed by or contract with a supervising bail bondsman. The Department shall review the affidavit and determine whether the ~~first-year licensed bail bondsman~~ provisional licensee will be allowed to operate as an unsupervised bail bondsman. A first-year licensed bail bondsman is prohibited from becoming a supervising bail bondsman during the first ~~two~~ five years of licensure.

(e) ~~Provided all other licensing requirements are met, an applicant for a bail bondsman or runner's license who has previously been licensed with the Commissioner for a period of at least 18 consecutive months and who has been inactive or unlicensed for a period of not more than three consecutive years shall not be deemed a new licensee for purposes of this section."~~

SECTION 2.(c) Article 71 of Chapter 58 of the General Statutes is amended by adding a new section to read:

"§ 58-71-43. Requirements for supervising bail bondsmen.

(a) A bail bondsman who seeks to act as a supervising bail bondsman or to restore a revoked supervising bail bondsman status shall meet all of the following requirements:

(1) Submit an application on a form approved by the Commissioner and pay a two hundred dollar (\$200.00) application fee.

(2) Have five years of uninterrupted experience as a licensed bail bondsman.

(3) Have not violated an order of the Commissioner or had adverse administrative action taken against his license pursuant to G.S. 58-71-80.

(4) Complete a supervising bail bondsman training course offered by the Commissioner and pass a written examination provided by the Commissioner.

(b) A supervising bail bondsman shall pay an annual renewal fee of two hundred dollars (\$200.00) by May 31 of each year. Failure to pay the annual renewal fee shall result in revocation of a bondsman's status as a supervising bail bondsman.

(c) By the fifth business day of each month, a supervising bail bondsman shall submit to the Commissioner, on a form approved by the Commissioner, a record of each provisional licensee supervised by the supervising bail bondsman."

PART III. CHANGES TO DISCIPLINARY STATUTE TO ALLOW FOR ADMINISTRATIVE ACTION BASED ON THE COMMISSION OF CERTAIN CRIMES AND PROVISIONAL LICENSEE CONFORMING CHANGE

SECTION 3. G.S. 58-71-80 reads as rewritten:

"§ 58-71-80. Grounds for denial, suspension, probation, revocation, or nonrenewal of licenses.

(a) The Commissioner may deny, place on probation, suspend, revoke, or refuse to renew any license issued under this Article, in accordance with the provisions of Article 3A of Chapter 150B of the General Statutes, for any one or more of the following causes:

...

(2) ~~A Commission~~ or conviction of any misdemeanor committed in the course of dealings under the license issued by the Commissioner.

...

(6) ~~Conviction~~ Commission or conviction of a crime involving dishonesty, breach of trust, or moral turpitude.

...

(16) The commission of any felony.

...

(c) In the case of a ~~first-year~~ provisional licensee whose employment or contract is terminated prior to the end of the ~~12-month~~ 24-month supervisory period, the Commissioner may consider all information provided in writing by the supervising bail bondsman in determining whether sufficient cause exists to suspend, revoke, or refuse to renew the license or to warrant criminal prosecution of the ~~first-year~~ provisional licensee. If the Commissioner determines there is not sufficient cause for adverse administrative action or criminal prosecution, the termination shall not be deemed an interruption and the period of time the licensee was employed by or contracted with the terminating supervising bail bondsman will be credited toward the licensee's completion of the required ~~12-24~~ 24 months of supervision with a subsequent supervising bail bondsman.

...."

PART IV. CHANGE DUE DATE FOR CONTINUING EDUCATION REQUIREMENTS AND RENEWAL APPLICATIONS

1 **SECTION 4.(a)** G.S. 58-71-71(b) reads as rewritten:

2 "(b) Each year by ~~June 30~~ May 31 every licensee shall complete at least three hours of
3 continuing education as provided by an approved provider in subjects related to the duties and
4 responsibilities of a runner or bail bondsman. This continuing education shall not include a
5 written or oral examination. A person who receives his or her first license on or after January 1
6 of any year does not have to comply with this subsection until ~~June 30~~ May 31 of the following
7 year."

8 **SECTION 4.(b)** G.S. 58-71-75(b) reads as rewritten:

9 "(b) Renewal Application. – In even-numbered years, a bail bondsman or runner seeking
10 to renew a license shall provide the Commissioner ~~prior to the expiration date of the bail~~
11 ~~bondsman's or runner's current license, by May 31,~~ all of the following:

12 "

13 **SECTION 4.(c)** This section becomes effective July 1, 2024, and applies to bail
14 bondsmen licenses issued or renewed on or after that date.

15
16 **PART V. EFFECTIVE DATE**

17 **SECTION 5.** Except as otherwise provided, this act becomes effective October 1,
18 2023, and applies to bail bondsmen licenses issued or renewed on or after that date.