

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 397 Session of 2015

INTRODUCED BY ALLOWAY, KITCHEN, YUDICHAK, BREWSTER, BLAKE, SCHWANK, RAFFERTY, AUMENT, WHITE, COSTA, EICHELBERGER, BOSCOLA, FARNESE, MENSCH, BAKER, MCGARRIGLE, WOZNIAK, BROOKS, WILLIAMS, SMITH AND TARTAGLIONE, JANUARY 30, 2015

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JUNE 16, 2015

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, in bonds and
3 recognizances, amending provisions relating to professional
4 bondsmen and providing for authorization to conduct business
5 within each county, for forfeited undertaking and, for <--
6 private cause of action AND FOR THIRD PARTY SURETIES. <--

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. The heading of Subchapter B of Chapter 57 of <--
10 Title 42 of the Pennsylvania Consolidated Statutes is amended to
11 read:

SUBCHAPTER B

{PROFESSIONAL} BAIL BONDSMEN

14 Section 2. Sections 5741 and 5742 of Title 42 are amended to
15 read:

16 § 5741. Definitions.

17 The following words and phrases when used in this subchapter
18 shall have, unless the context clearly indicates otherwise, the

1 meanings given to them in this section:

2 ~~"Bail bondsman." Any person that engages in the business of~~
3 ~~giving bail as a surety for compensation.~~

4 ~~"Department." The Insurance Department of the Commonwealth.~~

5 ~~"Insurer." As defined in section 601 A of the act of May 17,~~
6 ~~1921 (P.L.789, No.285), known as The Insurance Department Act of~~
7 ~~1921.~~

8 ~~"Office of the clerk." The office of the clerk of the court~~
9 ~~of common pleas of each judicial district in which a~~
10 ~~{professional bondsman} person engages in the business of {a~~
11 ~~professional bondsman} a bail bondsman.~~

12 ~~{"Professional bondsman." Any person, other than a fidelity~~
13 ~~or surety company or any of its officers, agents, attorneys, or~~
14 ~~employees, authorized to execute bail bonds or to solicit~~
15 ~~business on its behalf, who:~~

16 ~~(1) engages in the business of giving bail, giving or~~
17 ~~soliciting undertakings, or giving or soliciting indemnity or~~
18 ~~counterindemnity to sureties on undertakings; or~~

19 ~~(2) within a period of 30 days has become a surety, or~~
20 ~~has indemnified a surety, for the release on bail of a~~
21 ~~person, with or without a fee or compensation, or promise~~
22 ~~thereof, in three or more matters not arising out of the same~~
23 ~~transaction.}~~

24 ~~"Surety." Any person who pledges security, whether or not~~
25 ~~for compensation, in exchange for the release from custody of a~~
26 ~~person charged with a crime prior to adjudication.~~

27 ~~§ 5742. [Registration and licensure] Licensure required.~~

28 ~~{(a) General rule. No professional bondsman shall become~~
29 ~~surety on any undertaking, and no person shall engage in or~~
30 ~~continue to engage in business as a professional bondsman,~~

1 ~~unless he has been registered and is currently licensed as a~~
2 ~~professional bondsman by the Insurance Department as provided in~~
3 ~~this subchapter and has filed a copy of his license in the~~
4 ~~office of the clerk in the manner prescribed by general rules.~~

5 ~~(b) Form of application. Every application for registration~~
6 ~~and licensure as a professional bondsman shall be made in~~
7 ~~writing upon such form as may be prescribed by regulations~~
8 ~~promulgated by the Insurance Department.] No person shall engage~~
9 ~~in, or continue to engage in, the business of a bail bondsman,~~
10 ~~unless the person has been licensed by the department as an~~
11 ~~insurance producer under Article VI A of the act of May 17, 1921~~
12 ~~(P.L.789, No.285), known as The Insurance Department Act of~~
13 ~~1921, and possesses a casualty line of authority.~~

14 Section 3. Section 5743 of Title 42 is repealed:

15 {§ 5743. Issuance of license.

16 (a) General rule. The Insurance Department, upon receipt
17 of:

18 (1) ~~an application for registration and licensure as a~~
19 ~~professional bondsman; and~~

20 (2) ~~an annual license fee of \$50;~~

21 shall, if it approves the application, register the applicant as
22 a professional bondsman and issue him a license.

23 (b) Duration. Each license shall be valid for one year
24 following the date of issue.

25 (c) Nontransferable. No license issued under this
26 subchapter shall be assigned or transferred.]

27 Section 4. Title 42 is amended by adding a section to read:

28 § 5743.1. Authorization to conduct business within each county.

29 A bail bondsman shall only be authorized to conduct business
30 in a county when the bail bondsman provides all of the following

1 ~~documents to the office of the clerk.~~

2 ~~(1) A copy of the license issued to the bail bondsman by~~
3 ~~the department.~~

4 ~~(2) A statement identifying an office address for~~
5 ~~service of legal process.~~

6 ~~(3) A qualifying power of attorney issued by an insurer~~
7 ~~authorizing the bail bondsman as a producer on behalf of the~~
8 ~~insurer. The qualifying power of attorney must set forth, in~~
9 ~~clear and unambiguous terms, the maximum monetary authority~~
10 ~~of the bail bondsman per bond.~~

11 Section 5. Sections 5744, 5745 and 5746 of Title 42 are
12 amended to read:

13 § 5744. Office.

14 No [license shall be issued to, and no] privileges or rights
15 conferred by any license issued under the provisions of this
16 subchapter shall be exercised by[, any professional] any bail
17 bondsman, unless such [professional] bail bondsman has and shall
18 thereafter maintain an office [in the county in which he
19 conducts or intends to conduct his business.] that is
20 geographically located in this Commonwealth and eligible to
21 receive original process and other legal papers as set forth by
22 the Pennsylvania Rules of Civil Procedure or other applicable
23 court rule.

24 § 5745. [Refusal to grant or renew license] Suspension or
25 nonrenewal of license for unpaid forfeitures.

26 [The Insurance Department, upon the written request of any
27 applicant for a license or for renewal thereof whose application
28 therefor has been refused, shall afford such applicant a hearing
29 on the question of the grant or renewal of a license.]

30 ~~(a) General rule. Where the court of common pleas for the~~

~~1 county where the bail bondsman is authorized to conduct business~~
~~2 has been unable to collect unpaid forfeitures after a period of~~
~~3 six months, the court, upon petition of the county solicitor or~~
~~4 district attorney, shall issue an order directing the department~~
~~5 to:~~

- ~~6 (1) deny renewal of a license of the bail bondsman; or~~
- ~~7 (2) immediately suspend the license of the bail~~
~~8 bondsman.~~

~~9 (b) Notice to bail bondsman and insurer. The following~~
~~10 shall apply:~~

~~11 (1) Prior to the issuance of an order to deny renewal of~~
~~12 or suspend a license, the bail bondsman and insurer who~~
~~13 issued the qualifying power of attorney shall both be given~~
~~14 advance notice by certified mail, return receipt requested.~~
~~15 The notice shall specify all of the following:~~

~~16 (i) The amount of forfeitures owed to the county, if~~
~~17 applicable.~~

~~18 (ii) How, when and where the notice can be~~
~~19 contested.~~

~~20 (iii) That the grounds for contesting the notice~~
~~21 shall be limited to mistakes of fact. Mistakes of fact~~
~~22 shall be limited to errors in the amount of forfeitures~~
~~23 owed or mistaken identity of the bail bondsman as the~~
~~24 person who was subject to the bail forfeiture order.~~

~~25 (iv) That an order to the department to~~
~~26 automatically suspend or deny the license will occur in~~
~~27 all cases 30 days after delivery of the notice by~~
~~28 certified mail, return receipt requested, unless the~~
~~29 amount of forfeitures is paid, a periodic payment~~
~~30 schedule is approved by the court or the individual is~~

1 ~~excused from payment due to a mistake of fact.~~

2 ~~(c) Order. The following shall apply:~~

3 ~~(1) Thirty days after the issuance of the notice, if the~~
4 ~~bail bondsman has not paid the amount of forfeitures due, the~~
5 ~~court shall direct or cause an order to be issued to the~~
6 ~~department to deny renewal of or to suspend a license. Upon~~
7 ~~receipt, the department shall immediately comply with the~~
8 ~~order or directive. The department shall have no authority to~~
9 ~~stay implementation of the order or to hold a hearing except~~
10 ~~in cases of mistaken identity. A copy of the order issued by~~
11 ~~the court shall be served upon the bail bondsman and insurer~~
12 ~~by certified mail, return receipt requested.~~

13 ~~(2) To contest any order, the bail bondsman or insurer~~
14 ~~must appear before the court no later than 10 days after~~
15 ~~issuance of the order. The grounds for contesting shall be~~
16 ~~limited to mistakes of fact. If it is determined, after a~~
17 ~~hearing by the court, that a mistake of fact has occurred,~~
18 ~~the action shall be modified accordingly within 10 days.~~

19 ~~(3) A person whose license has not been renewed or is~~
20 ~~suspended by the department pursuant to this section may not~~
21 ~~engage in the business of a bail bondsman in any county of~~
22 ~~this Commonwealth.~~

23 ~~(d) Implementation. The department may promulgate~~
24 ~~regulations necessary for the administration of this section.~~

25 ~~(e) Construction. This section shall apply in addition to~~
26 ~~the provisions of Article VI A of the act of May 17, 1921~~
27 ~~(P.L.789, No.285), known as The Insurance Department Act of~~
28 ~~1921, and shall supersede any conflicting provision in any other~~
29 ~~State law unless the provision specifically references this~~
30 ~~section and provides to the contrary.~~

1 ~~(f) Immunity. The court, the department, the county~~
2 ~~solicitor and the district attorney, and any employee or~~
3 ~~appointee of these entities, shall not be subject to civil or~~
4 ~~criminal liability for carrying out the entity's duties under~~
5 ~~this section. Nothing in this section is intended to limit the~~
6 ~~civil or criminal liability of a bail bondsman or an employee or~~
7 ~~agent thereof.~~

8 ~~§ 5746. Suspension or revocation of [license] authority to~~
9 ~~conduct business in a county.~~

10 ~~(a) General rule. Upon petition of the district attorney or~~
11 ~~[by any interested person] county solicitor to suspend or revoke~~
12 ~~the [license issued to any licensee] authority of a bail~~
13 ~~bondsman to conduct business in a county that has been granted~~
14 ~~under this subchapter, a rule shall issue out of the court of~~
15 ~~common pleas, returnable not less than ten days after the~~
16 ~~issuance thereof. It shall be sufficient service of the said~~
17 ~~rule upon any [licensee to leave a copy thereof at] bail~~
18 ~~bondsman to send by certified mail, return receipt requested, to~~
19 ~~the address filed by the [licensee] bail bondsman with the~~
20 ~~office of the clerk pursuant to this subchapter.~~

21 ~~(b) Grounds for suspension or revocation. Any [license~~
22 ~~issued] authority granted under the provisions of this~~
23 ~~subchapter may be suspended[,] or revoked by any court of common~~
24 ~~pleas [for a period less than the unexpired portion of the~~
25 ~~period for which such license shall have been issued, or may be~~
26 ~~revoked] for good cause[,] or for any one or more of the~~
27 ~~following causes:~~

28 ~~(1) Violation of any of the provisions of this~~
29 ~~subchapter.~~

30 ~~(2) Fraudulently obtaining a license from the department~~

1 ~~or fraudulently obtaining authority to conduct business under~~
2 ~~the provisions of this subchapter.~~

3 ~~(3) Upon conviction for any criminal offense under the~~
4 ~~laws of this Commonwealth or under the laws of the United~~
5 ~~States or any other jurisdiction.~~

6 ~~(4) Upon being adjudged [a] bankrupt or insolvent.~~

7 ~~(5) Failing to pay any judgment rendered on any~~
8 ~~forfeited undertaking in any court of competent jurisdiction.~~

9 ~~(6) Any interference or attempted interference with the~~
10 ~~administration of justice.~~

11 ~~Section 6. Section 5747 of Title 42 is repealed:~~

12 ~~§ 5747. Statements by fidelity or surety companies.~~

13 ~~Any fidelity or surety company, authorized to act as surety~~
14 ~~within this Commonwealth, may execute an undertaking as surety~~
15 ~~by the hand of an officer, employee, agent, or attorney,~~
16 ~~authorized thereto by a resolution of its board of directors, a~~
17 ~~certified copy of which, under its corporate seal, shall be~~
18 ~~filed with the undertaking. Fidelity or surety companies engaged~~
19 ~~in the business of entering bail shall file, with the clerk of~~
20 ~~the court of common pleas and with the district attorney of each~~
21 ~~county in which bail is entered, a statement, quarterly on which~~
22 ~~shall appear a summary of all bail entered by such company~~
23 ~~during the previous quarter, together with the compensation~~
24 ~~charged therefor.]~~

25 ~~Section 7. Title 42 is amended by adding a section to read:~~

26 ~~§ 5747.1. Forfeited undertaking.~~

27 ~~(a) General rule. If a defendant in a criminal prosecution~~
28 ~~fails to appear for any scheduled court proceeding, the~~
29 ~~defendant's bail may be revoked, and notice of revocation shall~~
30 ~~serve as notice of intent to forfeit the bail of the defendant.~~

1 ~~Such notice or order of revocation shall be served by the office~~
2 ~~of the clerk to the defendant, surety or bail bondsman and~~
3 ~~insurer who has issued the qualifying power of attorney for the~~
4 ~~bail bondsman, by certified mail, return receipt requested.~~

5 ~~(b) Payment. The following shall apply:~~

6 ~~(1) Ninety days from the date of service of the notice~~
7 ~~of revocation or order of revocation, the revocation shall~~
8 ~~become a judgment of forfeiture, payment of which shall be~~
9 ~~immediately required by the defendant or surety. Failure of a~~
10 ~~bail bondsman to make a timely payment of a forfeiture~~
11 ~~judgment shall result in the district attorney or county~~
12 ~~solicitor commencing proceedings to suspend or revoke the~~
13 ~~authority of the bail bondsman otherwise consistent with~~
14 ~~section 5746 (relating to suspension or revocation of~~
15 ~~authority to conduct business in a county).~~

16 ~~(2) Payment of any forfeited undertaking shall be made~~
17 ~~directly to the office of the clerk not later than the close~~
18 ~~of business on the 91st day following the service of the~~
19 ~~notice of revocation. If the defendant has been recovered and~~
20 ~~placed into custody through the efforts of the bail bondsman~~
21 ~~or proof has been provided to the court that the defendant~~
22 ~~has been discovered by the bail bondsman to be in custody in~~
23 ~~another jurisdiction prior to the 91st day, no payment of the~~
24 ~~forfeited undertaking shall be required. If the defendant is~~
25 ~~placed into custody or discovered to be in custody, the court~~
26 ~~shall set aside the bail revocation and may release the~~
27 ~~defendant with the reinstatement of bail pursuant to the~~
28 ~~Pennsylvania Rules of Criminal Procedure. The bail bondsman~~
29 ~~shall not be continued by the court as surety on reinstated~~
30 ~~bail unless a written consent is signed by the bail bondsman~~

1 ~~agreeing to such extension of suretyship.~~

2 ~~(3) Failure to render payment of the forfeited~~
3 ~~undertaking by close of business on the 91st day shall bar~~
4 ~~any right of remission to collect funds pursuant to a~~
5 ~~forfeited undertaking.~~

6 ~~(4) The office of the clerk shall provide a summary~~
7 ~~quarterly statement of all overdue forfeited undertakings~~
8 ~~which have not been paid by each bail bondsman and~~
9 ~~insurer. The bail bondsman or insurer shall be afforded 30~~
10 ~~days from the date of the statement to render payment of the~~
11 ~~forfeited undertakings. Failure to render payment by close of~~
12 ~~business on the 31st day shall result in suspension of the~~
13 ~~ability to conduct business of both the bail bondsman and the~~
14 ~~insurer in that judicial district until such time as payment~~
15 ~~is rendered in full. The bail bondsman may be subject to~~
16 ~~formal proceedings to deny renewal or to suspend a license~~
17 ~~pursuant to section 5746. The insurer may also be subjected~~
18 ~~to further administrative penalties, to be determined by the~~
19 ~~department, consistent with the act of July 22, 1974~~
20 ~~(P.L.589, No.205), known as the Unfair Insurance Practices~~
21 ~~Act, or other applicable law.~~

22 ~~(5) If the defendant is recovered after the 91st day~~
23 ~~following the forfeiture, a surety may petition the court in~~
24 ~~which the revocation and forfeiture occurred to remit all or~~
25 ~~a portion of the funds collected in exchange for the absence~~
26 ~~of the defendant. The court shall remit payment as follows:~~

27 ~~(i) If the defendant is recovered between the 91st~~
28 ~~day and six months after the order of revocation or~~
29 ~~forfeiture, the surety shall recover the full value of~~
30 ~~the forfeited amount of the bond, less an administrative~~

1 ~~fee in the amount of \$250.~~

2 ~~(ii) If the defendant is recovered between six~~
3 ~~months and one year after the order of revocation or~~
4 ~~forfeiture, the surety shall recover 80% of the value of~~
5 ~~the forfeited amount of the bond.~~

6 ~~(iii) If the defendant is recovered between one and~~
7 ~~two years after the order of revocation or forfeiture,~~
8 ~~the surety shall recover 50% of the value of the~~
9 ~~forfeited amount of the bond.~~

10 ~~(6) No third party surety shall be responsible to render~~
11 ~~payment on a forfeited undertaking if the revocation of bail~~
12 ~~is sought for failure of the defendant to comply with the~~
13 ~~conditions of the defendant's release other than appearance.~~
14 ~~Any violation of performance conditions by a defendant shall~~
15 ~~be deemed as a violation of a court order, subject to a~~
16 ~~conviction for indirect contempt of court for violating a~~
17 ~~court order instituting terms and conditions of release of~~
18 ~~the defendant and all associated penalties.~~

19 Section 8. Section 5748 of Title 42 is repealed:

20 ~~§ 5748. Maximum premiums.~~

21 ~~(a) General rule. No professional bondsman shall charge a~~
22 ~~premium or compensation for acting as surety on any undertaking~~
23 ~~in excess of 10% for the first \$100, and 5% for each additional~~
24 ~~\$100 of such undertaking.~~

25 ~~(b) Civil penalty. In any action brought to recover an~~
26 ~~overcharge by a professional bondsman, where such overcharge is~~
27 ~~proved, the professional bondsman shall be liable to pay treble~~
28 ~~damages therefor and reasonable counsel fees.]~~

29 Section 9. Title 42 is amended by adding a section to read:

30 ~~§ 5748.1. Private cause of action.~~

1 ~~(a) Self policing. Any bail bondsman or insurer who~~
2 ~~determines that a competitor has engaged in an activity that is~~
3 ~~in violation of any provision of this chapter may commence a~~
4 ~~cause of action seeking monetary damages, declaratory judgment~~
5 ~~or injunctive relief from the court of common pleas of the~~
6 ~~county in which the violation occurred. The violation must be~~
7 ~~proven by clear and convincing evidence.~~

8 ~~(b) Frivolous actions. Any bail bondsman or insurer who~~
9 ~~wrongfully commences a baseless action, knowingly without any~~
10 ~~merit or evidence, shall be subject to actual damages in the~~
11 ~~amount of the costs of the defense of the suit and punitive~~
12 ~~damages of an equal amount to those costs that constitute actual~~
13 ~~damages.~~

14 Section 10. Section 5749 of Title 42 is amended to read:
15 § 5749. Prohibitions and penalties.

16 (a) Licensing. Any person who engages in the business [as]
17 of a [professional] bail bondsman without being registered and
18 licensed in accordance with the provisions of this subchapter,
19 or who engages in such business while his license is suspended
20 or revoked, commits a misdemeanor of the third degree.

21 (b) Overcharging. Any person charging or receiving directly
22 or indirectly any greater compensation for acting as a
23 [professional] bail bondsman than is provided by this subchapter
24 commits a summary offense.

25 (c) Soliciting. Any person who accepts any fee or
26 compensation for obtaining a bondsman or a recognizance commits
27 a summary offense.

28 (d) Other violations. Any person who violates any section
29 of this subchapter for which no specific penalty other than
30 suspension or revocation of license is provided commits a

1 ~~summary offense.~~

2 ~~(e) Public officials. The following shall apply:~~

3 ~~(1) Any law enforcement officer, any employee of a penal~~
4 ~~institution, or any other system or related personnel, who~~
5 ~~has, directly or indirectly, any pecuniary interest in or~~
6 ~~derives any profit from the bonding business or activity of a~~
7 ~~[professional] bail bondsman commits a summary offense.~~

8 ~~(2) (i) Notwithstanding paragraph (1), it shall not be~~
9 ~~unlawful for a person who serves as a law enforcement~~
10 ~~officer, employee of a penal institution or any other~~
11 ~~system or related personnel to engage in the service of~~
12 ~~aiding a bail bondsman in fugitive recovery so long as~~
13 ~~all of the following apply:~~

14 ~~(A) The services are not rendered while the~~
15 ~~person is performing the person's duties in the~~
16 ~~person's capacity as a city, county or State~~
17 ~~employee.~~

18 ~~(B) The person is compensated separately.~~

19 ~~(ii) Any person who engages in fugitive recovery~~
20 ~~while in the service of the city, county or State or~~
21 ~~engages in fugitive recovery in uniform or under badge of~~
22 ~~the person's office commits a misdemeanor of the second~~
23 ~~degree.~~

24 ~~(f) Public solicitation. Any [professional] bail bondsman~~
25 ~~who solicits business in any of the courts or on the premises of~~
26 ~~any tribunal of this Commonwealth, including any tribunal~~
27 ~~conducted by a magisterial district judge, commits a summary~~
28 ~~offense.~~

29 ~~Section 11. A person licensed as a professional bondsman~~
30 ~~prior to the effective date of this section shall be licensed as~~

1 ~~an insurance producer in accordance with Article VI A of the act~~
2 ~~of May 17, 1921 (P.L.789, No.285), known as The Insurance~~
3 ~~Department Act of 1921.~~

4 ~~Section 12. This act shall take effect in 120 days.~~

5 SECTION 1. THE HEADING OF SUBCHAPTER B OF CHAPTER 57 OF <--
6 TITLE 42 OF THE PENNSYLVANIA CONSOLIDATED STATUTES IS AMENDED TO
7 READ:

8 SUBCHAPTER B
9 [PROFESSIONAL] BAIL BONDSMEN

10 SECTION 2. SECTIONS 5741 AND 5742 OF TITLE 42 ARE AMENDED TO
11 READ:

12 § 5741. DEFINITIONS.

13 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS SUBCHAPTER
14 SHALL HAVE, UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE, THE
15 MEANINGS GIVEN TO THEM IN THIS SECTION:

16 "BAIL BONDSMAN." A PERSON WHO ENGAGES IN THE BUSINESS OF
17 GIVING BAIL AS A SURETY FOR COMPENSATION.

18 "DEPARTMENT." THE INSURANCE DEPARTMENT OF THE COMMONWEALTH.

19 "INSURER." AS DEFINED IN SECTION 601-A OF THE ACT OF MAY 17,
20 1921 (P.L.789, NO.285), KNOWN AS THE INSURANCE DEPARTMENT ACT OF
21 1921.

22 "OFFICE OF THE CLERK." THE OFFICE OF THE CLERK OF THE COURT
23 OF COMMON PLEAS OF EACH JUDICIAL DISTRICT IN WHICH A
24 [PROFESSIONAL BONDSMAN] PERSON ENGAGES IN THE BUSINESS OF A
25 [PROFESSIONAL] BAIL BONDSMAN.

26 ["PROFESSIONAL BONDSMAN." ANY PERSON, OTHER THAN A FIDELITY
27 OR SURETY COMPANY OR ANY OF ITS OFFICERS, AGENTS, ATTORNEYS, OR
28 EMPLOYEES, AUTHORIZED TO EXECUTE BAIL BONDS OR TO SOLICIT
29 BUSINESS ON ITS BEHALF, WHO:

30 (1) ENGAGES IN THE BUSINESS OF GIVING BAIL, GIVING OR

1 SOLICITING UNDERTAKINGS, OR GIVING OR SOLICITING INDEMNITY OR
2 COUNTERINDEMNITY TO SURETIES ON UNDERTAKINGS; OR

3 (2) WITHIN A PERIOD OF 30 DAYS HAS BECOME A SURETY, OR
4 HAS INDEMNIFIED A SURETY, FOR THE RELEASE ON BAIL OF A
5 PERSON, WITH OR WITHOUT A FEE OR COMPENSATION, OR PROMISE
6 THEREOF, IN THREE OR MORE MATTERS NOT ARISING OUT OF THE SAME
7 TRANSACTION.]

8 "SURETY." A PERSON WHO PLEDGES SECURITY, WHETHER OR NOT FOR
9 COMPENSATION, IN EXCHANGE FOR THE RELEASE FROM CUSTODY OF A
10 PERSON CHARGED WITH A CRIME PRIOR TO ADJUDICATION.

11 § 5742. [REGISTRATION AND LICENSURE] LICENSURE REQUIRED.

12 [(A) GENERAL RULE.--NO PROFESSIONAL BONDSMAN SHALL BECOME
13 SURETY ON ANY UNDERTAKING, AND NO PERSON SHALL ENGAGE IN OR
14 CONTINUE TO ENGAGE IN BUSINESS AS A PROFESSIONAL BONDSMAN,
15 UNLESS HE HAS BEEN REGISTERED AND IS CURRENTLY LICENSED AS A
16 PROFESSIONAL BONDSMAN BY THE INSURANCE DEPARTMENT AS PROVIDED IN
17 THIS SUBCHAPTER AND HAS FILED A COPY OF HIS LICENSE IN THE
18 OFFICE OF THE CLERK IN THE MANNER PRESCRIBED BY GENERAL RULES.

19 (B) FORM OF APPLICATION.--EVERY APPLICATION FOR REGISTRATION
20 AND LICENSURE AS A PROFESSIONAL BONDSMAN SHALL BE MADE IN
21 WRITING UPON SUCH FORM AS MAY BE PRESCRIBED BY REGULATIONS
22 PROMULGATED BY THE INSURANCE DEPARTMENT.] NO PERSON SHALL ENGAGE
23 IN, OR CONTINUE TO ENGAGE IN, THE BUSINESS OF A BAIL BONDSMAN
24 UNLESS THE PERSON HAS BEEN LICENSED BY THE DEPARTMENT AS AN
25 INSURANCE PRODUCER UNDER ARTICLE VI-A OF THE ACT OF MAY 17, 1921
26 (P.L.789, NO.285), KNOWN AS THE INSURANCE DEPARTMENT ACT OF
27 1921, AND POSSESSES A CASUALTY LINE OF AUTHORITY.

28 SECTION 3. SECTION 5743 OF TITLE 42 IS REPEALED:

29 [§ 5743. ISSUANCE OF LICENSE.

30 (A) GENERAL RULE.--THE INSURANCE DEPARTMENT, UPON RECEIPT

1 OF:

2 (1) AN APPLICATION FOR REGISTRATION AND LICENSURE AS A
3 PROFESSIONAL BONDSMAN; AND

4 (2) AN ANNUAL LICENSE FEE OF \$50;

5 SHALL, IF IT APPROVES THE APPLICATION, REGISTER THE APPLICANT AS
6 A PROFESSIONAL BONDSMAN AND ISSUE HIM A LICENSE.

7 (B) DURATION.--EACH LICENSE SHALL BE VALID FOR ONE YEAR
8 FOLLOWING THE DATE OF ISSUE.

9 (C) NONTRANSFERABLE.--NO LICENSE ISSUED UNDER THIS
10 SUBCHAPTER SHALL BE ASSIGNED OR TRANSFERRED.]

11 SECTION 4. TITLE 42 IS AMENDED BY ADDING A SECTION TO READ:

12 § 5743.1. AUTHORIZATION TO CONDUCT BUSINESS WITHIN EACH COUNTY.

13 A BAIL BONDSMAN SHALL ONLY BE AUTHORIZED TO CONDUCT BUSINESS
14 IN A COUNTY WHEN THE BAIL BONDSMAN PROVIDES ALL OF THE FOLLOWING
15 DOCUMENTS TO THE OFFICE OF THE CLERK:

16 (1) A COPY OF THE LICENSE ISSUED TO THE BAIL BONDSMAN BY
17 THE DEPARTMENT.

18 (2) A STATEMENT IDENTIFYING AN OFFICE ADDRESS FOR
19 SERVICE OF LEGAL PROCESS.

20 (3) A QUALIFYING POWER OF ATTORNEY ISSUED BY AN INSURER
21 AUTHORIZING THE BAIL BONDSMAN AS A PRODUCER ON BEHALF OF THE
22 INSURER. THE QUALIFYING POWER OF ATTORNEY MUST SET FORTH, IN
23 CLEAR AND UNAMBIGUOUS TERMS, THE MAXIMUM MONETARY AUTHORITY
24 OF THE BAIL BONDSMAN PER BOND.

25 SECTION 5. SECTIONS 5744, 5745 AND 5746 OF TITLE 42 ARE
26 AMENDED TO READ:

27 § 5744. OFFICE.

28 NO [LICENSE SHALL BE ISSUED TO, AND NO] PRIVILEGES OR RIGHTS
29 CONFERRED BY ANY LICENSE ISSUED UNDER THE PROVISIONS OF THIS
30 SUBCHAPTER SHALL BE EXERCISED BY[, ANY PROFESSIONAL] A BAIL

1 BONDSMAN, UNLESS SUCH [PROFESSIONAL] BAIL BONDSMAN HAS AND SHALL
2 THEREAFTER MAINTAIN AN OFFICE [IN THE COUNTY IN WHICH HE
3 CONDUCTS OR INTENDS TO CONDUCT HIS BUSINESS.] THAT IS
4 GEOGRAPHICALLY LOCATED IN THIS COMMONWEALTH AND ELIGIBLE TO
5 RECEIVE ORIGINAL PROCESS AND OTHER LEGAL PAPERS AS SET FORTH BY
6 THE PENNSYLVANIA RULES OF CIVIL PROCEDURE OR OTHER APPLICABLE
7 COURT RULE.

8 § 5745. [REFUSAL TO GRANT OR RENEW LICENSE] SUSPENSION OR
9 NONRENEWAL OF LICENSE FOR UNPAID BAIL FORFEITURES.

10 [THE INSURANCE DEPARTMENT, UPON THE WRITTEN REQUEST OF ANY
11 APPLICANT FOR A LICENSE OR FOR RENEWAL THEREOF WHOSE APPLICATION
12 THEREFOR HAS BEEN REFUSED, SHALL AFFORD SUCH APPLICANT A HEARING
13 ON THE QUESTION OF THE GRANT OR RENEWAL OF A LICENSE.]

14 (A) GENERAL RULE.--IF THE COURT OF COMMON PLEAS FOR THE
15 COUNTY WHERE THE BAIL BONDSMAN IS AUTHORIZED TO CONDUCT BUSINESS
16 HAS BEEN UNABLE TO COLLECT UNPAID FORFEITURES AFTER A PERIOD OF
17 SIX MONTHS OR IF A PENALTY IS WARRANTED UNDER SECTION 5750(C) <--
18 (RELATING TO THIRD PARTY SURETIES), THE COURT, UPON PETITION OF
19 THE COUNTY SOLICITOR OR DISTRICT ATTORNEY, SHALL ISSUE AN ORDER
20 DIRECTING THE DEPARTMENT TO:

21 (1) PROHIBIT THE RENEWAL OF A LICENSE OF THE BAIL
22 BONDSMAN; OR

23 (2) IMMEDIATELY SUSPEND THE LICENSE OF THE BAIL
24 BONDSMAN.

25 (B) NOTICE TO BAIL BONDSMAN AND INSURER.--PRIOR TO THE
26 ISSUANCE OF AN ORDER TO SUSPEND OR NONRENEW A LICENSE, THE BAIL
27 BONDSMAN AND INSURER WHO ISSUED THE QUALIFYING POWER OF ATTORNEY
28 SHALL BOTH BE GIVEN ADVANCE NOTICE BY CERTIFIED MAIL, RETURN
29 RECEIPT REQUESTED. THE NOTICE SHALL SPECIFY ALL OF THE
30 FOLLOWING:

1 (1) THE AMOUNT OF FORFEITURES OWED TO THE COUNTY AND <--
2 PENALTIES UNDER SECTION 5750(C) (2) (I), IF APPLICABLE.

3 (2) HOW, WHEN AND WHERE THE NOTICE CAN BE CONTESTED.

4 (3) THAT THE GROUNDS FOR CONTESTING THE NOTICE SHALL BE
5 LIMITED TO MISTAKES OF FACT. MISTAKES OF FACT SHALL BE
6 LIMITED TO ERRORS IN THE AMOUNT OF FORFEITURES OWED OR
7 MISTAKEN IDENTITY OF THE BAIL BONDSMAN AS THE PERSON WHO WAS
8 SUBJECT TO THE BAIL FORFEITURE ORDER.

9 (4) THAT AN ORDER TO THE DEPARTMENT TO AUTOMATICALLY
10 SUSPEND OR NONRENEW THE LICENSE WILL OCCUR IN ALL CASES 30
11 DAYS AFTER DELIVERY OF THE NOTICE BY CERTIFIED MAIL, RETURN
12 RECEIPT REQUESTED, UNLESS THE AMOUNT OF FORFEITURES AND <--
13 PENALTIES, PROVIDING THE BASIS FOR ISSUANCE OF THE ORDER, IS
14 PAID, A PERIODIC PAYMENT SCHEDULE IS APPROVED BY THE COURT OR
15 THE INDIVIDUAL IS EXCUSED FROM PAYMENT DUE TO A MISTAKE OF
16 FACT.

17 (C) ORDER.--THE FOLLOWING SHALL APPLY:

18 (1) THIRTY DAYS AFTER THE ISSUANCE OF THE NOTICE, IF THE
19 BAIL BONDSMAN HAS NOT PAID THE AMOUNT OF FORFEITURES ~~DUE~~ AND <--
20 PENALTIES, THE COURT SHALL DIRECT OR CAUSE AN ORDER TO BE
21 ISSUED TO THE DEPARTMENT TO SUSPEND OR DENY RENEWAL OF A
22 LICENSE. UPON RECEIPT, THE DEPARTMENT SHALL IMMEDIATELY
23 COMPLY WITH THE ORDER OR DIRECTIVE. THE DEPARTMENT SHALL HAVE
24 NO AUTHORITY TO STAY IMPLEMENTATION OF THE ORDER OR TO HOLD A
25 HEARING EXCEPT IN CASES OF MISTAKEN IDENTITY. A COPY OF THE
26 ORDER ISSUED BY THE COURT SHALL BE SERVED UPON THE BAIL
27 BONDSMAN AND INSURER BY CERTIFIED MAIL, RETURN RECEIPT
28 REQUESTED.

29 (2) TO CONTEST AN ORDER, THE BAIL BONDSMAN OR INSURER
30 MUST APPEAR BEFORE THE COURT NO LATER THAN TEN DAYS AFTER

1 ISSUANCE OF THE ORDER. THE GROUNDS FOR CONTESTING SHALL BE
2 LIMITED TO MISTAKES OF FACT. IF IT IS DETERMINED, AFTER A
3 HEARING BY THE COURT, THAT A MISTAKE OF FACT HAS OCCURRED,
4 THE ACTION SHALL BE MODIFIED ACCORDINGLY WITHIN TEN DAYS.

5 (3) A PERSON WHOSE LICENSE HAS BEEN SUSPENDED OR NOT
6 RENEWED BY THE DEPARTMENT PURSUANT TO THIS SECTION IS
7 PROHIBITED FROM ENGAGING IN THE BUSINESS OF A BAIL BONDSMAN
8 IN ANY COUNTY IN THIS COMMONWEALTH.

9 (D) IMPLEMENTATION.--THE DEPARTMENT MAY PROMULGATE
10 REGULATIONS NECESSARY FOR THE ADMINISTRATION OF THIS SECTION.

11 (E) CONSTRUCTION.--THIS SECTION SHALL APPLY IN ADDITION TO
12 THE PROVISIONS OF ARTICLE VI-A OF THE ACT OF MAY 17, 1921
13 (P.L.789, NO.285), KNOWN AS THE INSURANCE DEPARTMENT ACT OF
14 1921, AND SHALL SUPERSEDE ANY CONFLICTING PROVISION IN ANY OTHER
15 STATE LAW UNLESS THE PROVISION SPECIFICALLY REFERENCES THIS
16 SECTION AND PROVIDES TO THE CONTRARY.

17 (F) IMMUNITY.--THE COURT, DEPARTMENT, COUNTY SOLICITOR,
18 DISTRICT ATTORNEY OR AN EMPLOYEE OF ANY OF THESE ENTITIES, OR
19 ANY PERSON APPOINTED BY THESE ENTITIES, SHALL NOT BE SUBJECT TO
20 CIVIL OR CRIMINAL LIABILITY FOR CARRYING OUT ITS DUTIES UNDER
21 THIS SECTION.

22 § 5746. SUSPENSION OR REVOCATION OF [LICENSE] AUTHORITY TO
23 CONDUCT BUSINESS IN A COUNTY.

24 (A) GENERAL RULE.--UPON PETITION OF THE DISTRICT ATTORNEY OR
25 [BY ANY INTERESTED PERSON] COUNTY SOLICITOR TO SUSPEND OR REVOKE
26 THE [LICENSE ISSUED TO ANY LICENSEE] AUTHORITY OF A BONDSMAN TO
27 CONDUCT BUSINESS IN A COUNTY THAT HAS BEEN GRANTED UNDER THIS
28 SUBCHAPTER, A RULE SHALL ISSUE OUT OF THE COURT OF COMMON PLEAS,
29 RETURNABLE NOT LESS THAN TEN DAYS AFTER THE ISSUANCE THEREOF. IT
30 SHALL BE SUFFICIENT SERVICE OF THE SAID RULE UPON ANY [LICENSEE

1 TO LEAVE A COPY THEREOF AT] BAIL BONDSMAN TO SEND BY CERTIFIED
2 MAIL, RETURN RECEIPT REQUESTED, TO THE ADDRESS FILED BY THE
3 [LICENSEE] BAIL BONDSMAN WITH THE OFFICE OF THE CLERK PURSUANT
4 TO THIS SUBCHAPTER.

5 (B) GROUNDS FOR SUSPENSION OR REVOCATION.--ANY [LICENSE
6 ISSUED] AUTHORITY GRANTED UNDER THE PROVISIONS OF THIS
7 SUBCHAPTER MAY BE SUSPENDED[,] OR REVOKED BY ANY COURT OF COMMON
8 PLEAS [FOR A PERIOD LESS THAN THE UNEXPIRED PORTION OF THE
9 PERIOD FOR WHICH SUCH LICENSE SHALL HAVE BEEN ISSUED, OR MAY BE
10 REVOKED] FOR GOOD CAUSE, OR FOR ANY ONE OR MORE OF THE FOLLOWING
11 CAUSES:

12 (1) VIOLATION OF ANY OF THE PROVISIONS OF THIS
13 SUBCHAPTER.

14 (2) FRAUDULENTLY OBTAINING A LICENSE FROM THE DEPARTMENT
15 OR FRAUDULENTLY OBTAINING AUTHORITY TO CONDUCT BUSINESS UNDER
16 THE PROVISIONS OF THIS SUBCHAPTER.

17 (3) UPON CONVICTION FOR ANY CRIMINAL OFFENSE UNDER THE
18 LAWS OF THIS COMMONWEALTH OR UNDER THE LAWS OF THE UNITED
19 STATES OR ANY OTHER JURISDICTION.

20 (4) UPON BEING ADJUDGED [A] BANKRUPT OR INSOLVENT.

21 (5) FAILING TO PAY ANY JUDGMENT RENDERED ON ANY
22 FORFEITED UNDERTAKING IN ANY COURT OF COMPETENT JURISDICTION.

23 (6) ANY INTERFERENCE OR ATTEMPTED INTERFERENCE WITH THE
24 ADMINISTRATION OF JUSTICE.

25 SECTION 6. SECTION 5747 OF TITLE 42 IS REPEALED:

26 [§ 5747. STATEMENTS BY FIDELITY OR SURETY COMPANIES.

27 ANY FIDELITY OR SURETY COMPANY, AUTHORIZED TO ACT AS SURETY
28 WITHIN THIS COMMONWEALTH, MAY EXECUTE AN UNDERTAKING AS SURETY
29 BY THE HAND OF AN OFFICER, EMPLOYEE, AGENT, OR ATTORNEY,
30 AUTHORIZED THERETO BY A RESOLUTION OF ITS BOARD OF DIRECTORS, A

1 CERTIFIED COPY OF WHICH, UNDER ITS CORPORATE SEAL, SHALL BE
2 FILED WITH THE UNDERTAKING. FIDELITY OR SURETY COMPANIES ENGAGED
3 IN THE BUSINESS OF ENTERING BAIL SHALL FILE, WITH THE CLERK OF
4 THE COURT OF COMMON PLEAS AND WITH THE DISTRICT ATTORNEY OF EACH
5 COUNTY IN WHICH BAIL IS ENTERED, A STATEMENT, QUARTERLY ON WHICH
6 SHALL APPEAR A SUMMARY OF ALL BAIL ENTERED BY SUCH COMPANY
7 DURING THE PREVIOUS QUARTER, TOGETHER WITH THE COMPENSATION
8 CHARGED THEREFOR.]

9 SECTION 7. TITLE 42 IS AMENDED BY ADDING A SECTION TO READ:
10 § 5747.1. FORFEITED UNDERTAKING.

11 (A) GENERAL RULE.--IF A DEFENDANT IN A CRIMINAL PROSECUTION
12 FAILS TO APPEAR FOR ANY SCHEDULED COURT PROCEEDING, THE
13 DEFENDANT'S BAIL MAY BE REVOKED AND NOTICE OF REVOCATION SHALL
14 SERVE AS NOTICE OF INTENT TO FORFEIT THE BAIL OF THE DEFENDANT.
15 THE NOTICE OR ORDER OF REVOCATION SHALL BE SERVED BY THE OFFICE
16 OF THE CLERK TO THE DEFENDANT, SURETY OR BAIL BONDSMAN AND
17 INSURER WHO HAS ISSUED THE QUALIFYING POWER OF ATTORNEY FOR THE
18 BAIL BONDSMAN BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED.

19 (B) PAYMENT.--THE FOLLOWING SHALL APPLY:

20 (1) NINETY DAYS FROM THE DATE OF THE SERVICE OF THE
21 NOTICE OF REVOCATION OR ORDER OF REVOCATION, THE REVOCATION
22 SHALL BECOME A JUDGMENT OF FORFEITURE, PAYMENT OF WHICH SHALL
23 BE IMMEDIATELY REQUIRED BY THE DEFENDANT OR SURETY. FAILURE
24 OF A BAIL BONDSMAN TO MAKE A TIMELY PAYMENT OF A FORFEITURE
25 JUDGMENT SHALL RESULT IN THE DISTRICT ATTORNEY OR COUNTY
26 SOLICITOR COMMENCING PROCEEDINGS TO SUSPEND OR NONRENEW THE
27 LICENSE OF THE BAIL BONDSMAN OTHERWISE CONSISTENT WITH
28 SECTION 5746 (RELATING TO SUSPENSION OR REVOCATION OF
29 AUTHORITY TO CONDUCT BUSINESS IN A COUNTY).

30 (2) PAYMENT OF FORFEITED UNDERTAKING SHALL BE MADE

1 DIRECTLY TO THE OFFICE OF THE CLERK NOT LATER THAN THE CLOSE
2 OF BUSINESS ON THE 91ST DAY FOLLOWING THE SERVICE OF THE
3 NOTICE OF REVOCATION. IF THE DEFENDANT HAS BEEN RECOVERED AND
4 PLACED INTO CUSTODY THROUGH THE EFFORTS OF THE BAIL BONDSMAN
5 OR PROOF HAS BEEN PROVIDED TO THE COURT THAT THE DEFENDANT
6 WAS DISCOVERED BY THE BAIL BONDSMAN TO BE IN CUSTODY IN
7 ANOTHER JURISDICTION PRIOR TO THE 91ST DAY, NO PAYMENT OF THE
8 FORFEITED UNDERTAKING SHALL BE REQUIRED. IF THE DEFENDANT IS
9 PLACED INTO CUSTODY OR DISCOVERED TO BE IN CUSTODY, THE COURT
10 SHALL SET ASIDE THE BAIL REVOCATION AND MAY RELEASE THE
11 DEFENDANT WITH THE REINSTITUTION OF BAIL PURSUANT TO THE
12 PENNSYLVANIA RULES OF CRIMINAL PROCEDURE. THE BAIL BONDSMAN
13 SHALL NOT BE CONTINUED BY THE COURT AS SURETY ON REINSTATED
14 BAIL UNLESS A WRITTEN CONSENT IS SIGNED BY THE BAIL BONDSMAN
15 AGREEING TO SUCH EXTENSION OF SURETYSHIP.

16 (3) FAILURE TO RENDER PAYMENT OF THE FORFEITED
17 UNDERTAKING BY CLOSE OF BUSINESS ON THE 91ST DAY SHALL BAR
18 ANY RIGHT OF REMISSION TO COLLECT FUNDS PURSUANT TO THE
19 FORFEITED UNDERTAKING.

20 (4) THE OFFICE OF THE CLERK SHALL PROVIDE A SUMMARY
21 QUARTERLY STATEMENT OF ALL OVERDUE FORFEITED UNDERTAKINGS
22 WHICH HAVE NOT BEEN PAID BY EACH BAIL BONDSMAN AND
23 INSURER. THE BAIL BONDSMAN OR INSURER SHALL BE AFFORDED 30
24 DAYS FROM THE DATE OF THE STATEMENT TO RENDER PAYMENT OF THE
25 FORFEITED UNDERTAKINGS. FAILURE TO RENDER PAYMENT BY CLOSE OF
26 BUSINESS ON THE 31ST DAY SHALL RESULT IN SUSPENSION OF THE
27 ABILITY TO CONDUCT BUSINESS OF BOTH THE BAIL BONDSMAN AND THE
28 INSURER IN THAT JUDICIAL DISTRICT UNTIL SUCH TIME AS PAYMENT
29 IS RENDERED IN FULL. THE BAIL BONDSMAN MAY BE SUBJECT TO
30 FORMAL SUSPENSION OR NONRENEWAL PROCEEDINGS PURSUANT TO

1 SECTION 5746. IN ADDITION, THE INSURER MAY BE SUBJECTED TO
2 FURTHER ADMINISTRATIVE PENALTIES, TO BE DETERMINED BY THE
3 DEPARTMENT, CONSISTENT WITH THE ACT OF JULY 22, 1974
4 (P.L.589, NO.205), KNOWN AS THE UNFAIR INSURANCE PRACTICES
5 ACT, OR OTHER APPLICABLE LAW.

6 (5) IF THE DEFENDANT IS RECOVERED AFTER THE 91ST DAY
7 FOLLOWING THE FORFEITURE, A SURETY MAY PETITION THE COURT IN
8 WHICH THE REVOCATION AND FORFEITURE OCCURRED TO REMIT ALL OR
9 A PORTION OF THE FUNDS COLLECTED IN EXCHANGE FOR THE ABSENCE
10 OF THE DEFENDANT. THE COURT SHALL REMIT PAYMENT AS FOLLOWS:

11 (I) IF THE DEFENDANT IS RECOVERED BETWEEN THE 91ST
12 DAY AND SIX MONTHS AFTER THE ORDER OF REVOCATION OR
13 FORFEITURE, THE SURETY SHALL RECOVER THE FULL VALUE OF
14 THE FORFEITED AMOUNT OF THE BOND, LESS AN ADMINISTRATIVE
15 FEE IN THE AMOUNT OF \$250.

16 (II) IF THE DEFENDANT IS RECOVERED BETWEEN SIX
17 MONTHS AND ONE YEAR AFTER THE ORDER OF REVOCATION OR
18 FORFEITURE, THE SURETY SHALL RECOVER 80% OF THE VALUE OF
19 THE FORFEITED AMOUNT OF THE BOND.

20 (III) IF THE DEFENDANT IS RECOVERED BETWEEN ONE AND
21 TWO YEARS AFTER THE ORDER OF REVOCATION OR FORFEITURE,
22 THE SURETY SHALL RECOVER 50% OF THE VALUE OF THE
23 FORFEITED AMOUNT OF THE BOND.

24 (6) NO THIRD-PARTY SURETY SHALL BE RESPONSIBLE TO RENDER
25 PAYMENT ON A FORFEITED UNDERTAKING IF THE REVOCATION OF BAIL
26 IS SOUGHT FOR FAILURE OF THE DEFENDANT TO COMPLY WITH THE
27 CONDITIONS OF THE DEFENDANT'S RELEASE OTHER THAN APPEARANCE.
28 ANY VIOLATION OF PERFORMANCE CONDITIONS BY A DEFENDANT SHALL
29 BE DEEMED AS A VIOLATION OF A COURT ORDER, SUBJECT TO A
30 CONVICTION FOR INDIRECT CONTEMPT OF COURT FOR VIOLATING A

1 COURT ORDER INSTITUTING TERMS AND CONDITIONS OF RELEASE OF
2 THE DEFENDANT AND ALL ASSOCIATED PENALTIES.

3 SECTION 8. SECTION 5748 OF TITLE 42 IS REPEALED:

4 [§ 5748. MAXIMUM PREMIUMS.

5 (A) GENERAL RULE.--NO PROFESSIONAL BONDSMAN SHALL CHARGE A
6 PREMIUM OR COMPENSATION FOR ACTING AS SURETY ON ANY UNDERTAKING
7 IN EXCESS OF 10% FOR THE FIRST \$100, AND 5% FOR EACH ADDITIONAL
8 \$100 OF SUCH UNDERTAKING.

9 (B) CIVIL PENALTY.--IN ANY ACTION BROUGHT TO RECOVER AN
10 OVERCHARGE BY A PROFESSIONAL BONDSMAN, WHERE SUCH OVERCHARGE IS
11 PROVED, THE PROFESSIONAL BONDSMAN SHALL BE LIABLE TO PAY TREBLE
12 DAMAGES THEREFOR AND REASONABLE COUNSEL FEES.]

13 SECTION 9. TITLE 42 IS AMENDED BY ADDING A SECTION TO READ:

14 § 5748.1. PRIVATE CAUSE OF ACTION.

15 (A) SELF-POLICING.--A BAIL BONDSMAN OR INSURER WHO
16 DETERMINES THAT A COMPETITOR HAS ENGAGED IN AN ACTIVITY THAT IS
17 IN VIOLATION OF ANY PROVISION OF THIS CHAPTER MAY COMMENCE A
18 CAUSE OF ACTION SEEKING MONETARY DAMAGES, DECLARATORY JUDGMENT
19 OR INJUNCTIVE RELIEF FROM THE COURT OF COMMON PLEAS OF THE
20 COUNTY IN WHICH THE VIOLATION OCCURRED. THE VIOLATION MUST BE
21 PROVEN BY CLEAR AND CONVINCING EVIDENCE.

22 (B) FRIVOLOUS ACTIONS.--A BAIL BONDSMAN OR INSURER WHO
23 WRONGFULLY COMMENCES A BASELESS ACTION, KNOWINGLY WITHOUT ANY
24 MERIT OR EVIDENCE, SHALL BE SUBJECT TO ACTUAL DAMAGES IN THE
25 AMOUNT OF THE COSTS OF THE DEFENSE OF THE SUIT AND PUNITIVE
26 DAMAGES OF AN AMOUNT EQUAL TO THOSE COSTS THAT CONSTITUTE ACTUAL
27 DAMAGES.

28 SECTION 10. SECTION 5749 OF TITLE 42 IS AMENDED TO READ:

29 § 5749. PROHIBITIONS AND PENALTIES.

30 (A) LICENSING.--ANY PERSON WHO ENGAGES IN THE BUSINESS [AS]

1 OF A [PROFESSIONAL] BAIL BONDSMAN WITHOUT BEING REGISTERED AND
2 LICENSED IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBCHAPTER,
3 OR WHO ENGAGES IN SUCH BUSINESS WHILE HIS LICENSE IS SUSPENDED
4 OR REVOKED, COMMITS A MISDEMEANOR OF THE THIRD DEGREE.

5 (B) OVERCHARGING.--ANY PERSON CHARGING OR RECEIVING DIRECTLY
6 OR INDIRECTLY ANY GREATER COMPENSATION FOR ACTING AS A
7 [PROFESSIONAL] BAIL BONDSMAN THAN IS PROVIDED BY THIS SUBCHAPTER
8 COMMITS A SUMMARY OFFENSE.

9 (C) SOLICITING.--ANY PERSON WHO ACCEPTS ANY FEE OR
10 COMPENSATION FOR OBTAINING A BONDSMAN OR A RECOGNIZANCE COMMITS
11 A SUMMARY OFFENSE.

12 (D) OTHER VIOLATIONS.--ANY PERSON WHO VIOLATES ANY SECTION
13 OF THIS SUBCHAPTER FOR WHICH NO SPECIFIC PENALTY OTHER THAN
14 SUSPENSION OR REVOCATION OF LICENSE IS PROVIDED COMMITS A
15 SUMMARY OFFENSE.

16 (E) PUBLIC OFFICIALS.--ANY LAW ENFORCEMENT OFFICER, ANY
17 EMPLOYEE OF A PENAL INSTITUTION, OR ANY OTHER SYSTEM OR RELATED
18 PERSONNEL, WHO HAS, DIRECTLY OR INDIRECTLY, ANY PECUNIARY
19 INTEREST IN OR DERIVES ANY PROFIT FROM THE BONDING BUSINESS OR
20 ACTIVITY OF A [PROFESSIONAL] BAIL BONDSMAN COMMITS A SUMMARY
21 OFFENSE.

22 (F) PUBLIC SOLICITATION.--ANY [PROFESSIONAL] BAIL BONDSMAN
23 WHO SOLICITS BUSINESS IN ANY OF THE COURTS OR ON THE PREMISES OF
24 ANY TRIBUNAL OF THIS COMMONWEALTH, INCLUDING ANY TRIBUNAL
25 CONDUCTED BY A MAGISTERIAL DISTRICT JUDGE, COMMITS A SUMMARY
26 OFFENSE.

27 SECTION 11. TITLE 42 IS AMENDED BY ADDING A SECTION TO READ:
28 § 5750. THIRD PARTY SURETIES.

29 (A) RESPONSIBILITIES.--A THIRD PARTY SURETY MUST REPORT A
30 VIOLATION OF A BAIL BOND CONDITION IF THE VIOLATION IS RELATED

1 TO ANY OF THE FOLLOWING:

2 (1) A STAY AWAY ORDER ISSUED BY A MAGISTERIAL DISTRICT
3 JUDGE, COURT OF COMMON PLEAS OR OTHER JUDICIAL OFFICER.

4 (2) AN ORDER ISSUED BY A MAGISTERIAL DISTRICT JUDGE,
5 COURT OF COMMON PLEAS OR OTHER JUDICIAL OFFICER UNDER 23
6 PA.C.S. CH. 61 (RELATING TO PROTECTION FROM ABUSE).

7 (3) AN ACT THAT CONSTITUTES A CRIME OF VICTIM OR WITNESS
8 INTIMIDATION AS PROVIDED UNDER 18 PA.C.S. § 4952 (RELATING TO
9 INTIMIDATION OF WITNESSES OR VICTIMS).

10 (4) AN ACT WHICH WOULD CONSTITUTE A MISDEMEANOR OR
11 FELONY UNDER THE FOLLOWING:

12 (I) 18 PA.C.S. CH. 25 (RELATING TO CRIMINAL
13 HOMICIDE).

14 (II) 18 PA.C.S. CH. 27 (RELATING TO ASSAULT).

15 (III) 18 PA.C.S. CH. 29 (RELATING TO KIDNAPPING).

16 (IV) 18 PA.C.S. CH. 31 (RELATING TO SEXUAL
17 OFFENSES).

18 (V) 30 PA.C.S. § 5502.1 (RELATING TO HOMICIDE BY
19 WATERCRAFT WHILE OPERATING UNDER INFLUENCE).

20 (VI) THE FORMER 75 PA.C.S. § 3731 (RELATING TO
21 DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED
22 SUBSTANCE) IN CASES INVOLVING BODILY INJURY.

23 (VII) 75 PA.C.S. § 3732 (RELATING TO HOMICIDE BY
24 VEHICLE).

25 (VIII) 75 PA.C.S. § 3735 (RELATING TO HOMICIDE BY
26 VEHICLE WHILE DRIVING UNDER INFLUENCE).

27 (IX) 75 PA.C.S. § 3735.1 (RELATING TO AGGRAVATED
28 ASSAULT BY VEHICLE WHILE DRIVING UNDER THE INFLUENCE).

29 (5) A CRIME ELIGIBLE FOR SENTENCING UNDER SECTION
30 9714(G) (RELATING TO SENTENCES FOR SECOND AND SUBSEQUENT

1 OFFENSES).

2 (B) REPORTING.--

3 (1) A THIRD PARTY SURETY MUST:

4 (I) REPORT A VIOLATION UNDER SUBSECTION (A) WITHIN
5 24 HOURS AFTER RECEIVING NOTICE OF THE VIOLATION,
6 VERBALLY OR IN WRITING, TO THE LAW ENFORCEMENT AGENCY IN
7 THE JURISDICTION RESPONSIBLE FOR THE CRIMINAL CASE OR
8 WHERE THE VIOLATION OCCURRED; AND

9 (II) CONFIRM IN WRITING TO THE OFFICE OF THE
10 ATTORNEY FOR THE COMMONWEALTH RESPONSIBLE FOR PROSECUTION
11 OF THE CASE FOR WHICH THE DEFENDANT WAS ADMITTED TO BAIL
12 WITHIN 48 HOURS OF MAKING THE INITIAL REPORT TO A LAW
13 ENFORCEMENT AGENCY.

14 (2) THE WRITTEN CONFIRMATION UNDER PARAGRAPH (1) (II)
15 MUST INCLUDE THE NAME OF THE DEFENDANT, THE NAME OF THE THIRD
16 PARTY SURETY, THE DATE OF THE VIOLATION, THE DATE AND TIME
17 THE THIRD PARTY SURETY LEARNED OF THE VIOLATION, THE NAME OF
18 THE LAW ENFORCEMENT AGENCY RECEIVING THE REPORT AND THE DATE
19 AND TIME THE THIRD PARTY SURETY REPORTED THE VIOLATION TO THE
20 LAW ENFORCEMENT AGENCY.

21 (3) THE REQUIREMENT UNDER PARAGRAPH (1) (II) MAY BE
22 SATISFIED BY HAND DELIVERY, UNITED STATES MAIL, FACSIMILE OR
23 ELECTRONIC MAIL.

24 (C) PENALTY.--

25 (1) EXCEPT AS PROVIDED UNDER PARAGRAPH (4), A THIRD
26 PARTY SURETY WHO FAILS TO COMPLY WITH SUBSECTIONS (A) AND (B)
27 MAY BE SUBJECT TO A CIVIL PENALTY IF THE ATTORNEY FOR THE
28 COMMONWEALTH DEMONSTRATES THAT:

29 (I) THE UNREPORTED VIOLATION OF A CONDITION
30 IDENTIFIED UNDER SUBSECTION (A) RESULTED IN BODILY INJURY

1 OR PROPERTY DAMAGE IN EXCESS OF \$10,000; AND

2 (II) EITHER OF THE FOLLOWING APPLY:

3 (A) THE TERMS OF THE BAIL CONDITION ARE KNOWN TO
4 THE THIRD PARTY SURETY PRIOR TO BODILY INJURY OR
5 PROPERTY DAMAGE BEING SUSTAINED AND THE THIRD PARTY
6 SURETY RECEIVED NOTICE OF THE VIOLATION OF THE
7 CONDITION WITH SUFFICIENT REASONABLE TIME TO MAKE THE
8 REPORT PRIOR TO THE BODILY INJURY OR PROPERTY DAMAGE
9 BEING SUSTAINED.

10 (B) THE THIRD PARTY SURETY'S FAILURE TO DISCOVER
11 AND REPORT THE VIOLATION WAS DUE TO WILLFUL DISREGARD
12 TO THE SAFETY OF A WITNESS, VICTIM OR THE GENERAL
13 PUBLIC IN CIRCUMSTANCES RELATED TO THE CONDITIONS
14 UNDER SUBSECTION (A).

15 (2) IF A COURT OF COMMON PLEAS IMPOSES A PENALTY UNDER
16 PARAGRAPH (1), A THIRD PARTY SURETY SHALL BE ASSESSED A CIVIL
17 PENALTY IN AN AMOUNT OF NOT LESS THAN \$500 NOR MORE THAN
18 \$5,000. THE FOLLOWING SHALL APPLY:

19 (I) IF THE ATTORNEY FOR THE COMMONWEALTH IS ABLE TO
20 DEMONSTRATE THAT THE THIRD PARTY SURETY IS A BAIL
21 BONDSMAN AND THE PENALTY IS NOT PAID WITHIN 90 DAYS OF
22 BEING IMPOSED, THE COURT SHALL SUSPEND THE AUTHORITY OF
23 THE BAIL BONDSMAN TO OPERATE AS A BAIL BONDSMAN IN THE
24 COUNTY FOR 60 DAYS AND SHALL PROVIDE NOTICE OF THE
25 SUSPENSION TO THE SURETY INSURER ASSOCIATED WITH THE BAIL
26 BONDSMAN. IF THE PENALTY REMAINS UNPAID AT THE CONCLUSION
27 OF THE SUSPENSION, THE ATTORNEY FOR THE COMMONWEALTH
28 SHALL COMMENCE LICENSE REVOCATION PROCEDURES UNDER
29 SECTION 5745 (RELATING TO SUSPENSION OR NONRENEWAL OF
30 LICENSE FOR UNPAID BAIL FORFEITURES) OR 5746 (RELATING TO

1 SUSPENSION OR REVOCATION OF AUTHORITY TO CONDUCT BUSINESS
2 IN A COUNTY).

3 (II) ANY FUNDS RECEIVED AS A CIVIL PENALTY UNDER
4 THIS PARAGRAPH MUST BE RETAINED AND BE USED BY THE
5 DISTRICT ATTORNEY TO PROVIDE VICTIM SERVICES.

6 (3) IF THE THIRD PARTY SURETY IS A BAIL BONDSMAN AND HAS
7 BEEN PENALIZED UNDER PARAGRAPH (2) FOR THREE OR MORE
8 VIOLATIONS IN A TWO-YEAR PERIOD, THE ATTORNEY FOR THE
9 COMMONWEALTH MAY COMMENCE AN ACTION TO REVOKE THE BAIL
10 BONDSMAN'S ABILITY TO CONDUCT BUSINESS UNDER SECTION 5745 OR
11 5746.

12 (4) A CIVIL PENALTY MAY NOT BE ASSESSED AND A LICENSE
13 SUSPENSION OR REVOCATION MAY NOT BE IMPOSED AGAINST A THIRD
14 PARTY SURETY FOR ANY OF THE FOLLOWING:

15 (I) FAILURE TO REPORT A KNOWN VIOLATION UNDER
16 SUBSECTION (A), IF THE THIRD PARTY SURETY PROVIDES
17 EVIDENCE THAT THE VIOLATION WAS REPORTED TO A LAW
18 ENFORCEMENT AGENCY UNDER SUBSECTION (B).

19 (II) LACK OF KNOWLEDGE OF THE BAIL CONDITIONS, IF
20 THE THIRD PARTY SURETY PROVIDES EVIDENCE THAT THE THIRD
21 PARTY SURETY ATTEMPTED TO OBTAIN INFORMATION ABOUT THE
22 BAIL CONDITIONS WHICH WENT UNANSWERED OR REFUSED OR THAT
23 THE BAIL CONDITIONS WERE ALTERED SUBSEQUENT TO THE
24 DEFENDANT'S RELEASE AND THE THIRD PARTY SURETY LACKED
25 INFORMATION ABOUT THE AMENDED CONDITIONS.

26 (III) WILLFUL DISREGARD TO THE SAFETY OF A WITNESS,
27 VICTIM OR THE GENERAL PUBLIC, IF:

28 (A) THE THIRD PARTY SURETY PROVIDES EVIDENCE
29 THAT THE THIRD PARTY SURETY REVIEWED THE BAIL
30 CONDITIONS WITH THE DEFENDANT WITHIN 24 HOURS OF

1 RELEASE AND DURING INSTANCES OF CONTACT BETWEEN THE
2 THIRD PARTY SURETY AND THE DEFENDANT; AND

3 (B) IF THE DEFENDANT INDICATED A WILLINGNESS TO
4 COMMIT A VIOLATION UNDER SUBSECTION (A), THE THIRD
5 PARTY SURETY REPORTED THE RISK TO THE ATTORNEY FOR
6 THE COMMONWEALTH OR THE LAW ENFORCEMENT AGENCY, IF
7 THE ATTORNEY FOR THE COMMONWEALTH IS UNAVAILABLE.

8 (D) BAIL FORFEITURE.--NOTHING UNDER THIS SECTION SHALL
9 PRECLUDE THE ATTORNEY FOR THE COMMONWEALTH FROM SEEKING A BAIL
10 FORFEITURE DIRECTLY FROM THE DEFENDANT.

11 (E) APPLICABILITY.--THIS SECTION SHALL APPLY TO THIRD PARTY
12 SURETIES.

13 SECTION 12. A PERSON LICENSED AS A PROFESSIONAL BONDSMAN
14 PRIOR TO THE EFFECTIVE DATE OF THIS ACT SHALL BE LICENSED AS AN
15 INSURANCE PRODUCER IN ACCORDANCE WITH ARTICLE VI-A OF THE ACT OF
16 MAY 17, 1921 (P.L.789, NO.285), KNOWN AS THE INSURANCE
17 DEPARTMENT ACT OF 1921.

18 SECTION 13. THIS ACT SHALL TAKE EFFECT IN 120 DAYS.