

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 REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 9, 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, THE COURT, UPON PETITION OF THE COUNTY SOLICITOR OR  
18 DISTRICT ATTORNEY, SHALL ISSUE AN ORDER DIRECTING THE DEPARTMENT  
19 TO:

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

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

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

30 (1) THE AMOUNT OF FORFEITURES OWED TO THE COUNTY, IF

1 APPLICABLE.

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

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

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

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

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

25 (2) TO CONTEST AN ORDER, THE BAIL BONDSMAN OR INSURER  
26 MUST APPEAR BEFORE THE COURT NO LATER THAN TEN DAYS AFTER  
27 ISSUANCE OF THE ORDER. THE GROUNDS FOR CONTESTING SHALL BE  
28 LIMITED TO MISTAKES OF FACT. IF IT IS DETERMINED, AFTER A  
29 HEARING BY THE COURT, THAT A MISTAKE OF FACT HAS OCCURRED,  
30 THE ACTION SHALL BE MODIFIED ACCORDINGLY WITHIN TEN DAYS.



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

8 (1) VIOLATION OF ANY OF THE PROVISIONS OF THIS  
9 SUBCHAPTER.

10 (2) FRAUDULENTLY OBTAINING A LICENSE FROM THE DEPARTMENT  
11 OR FRAUDULENTLY OBTAINING AUTHORITY TO CONDUCT BUSINESS UNDER  
12 THE PROVISIONS OF THIS SUBCHAPTER.

13 (3) UPON CONVICTION FOR ANY CRIMINAL OFFENSE UNDER THE  
14 LAWS OF THIS COMMONWEALTH OR UNDER THE LAWS OF THE UNITED  
15 STATES OR ANY OTHER JURISDICTION.

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

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

19 (6) ANY INTERFERENCE OR ATTEMPTED INTERFERENCE WITH THE  
20 ADMINISTRATION OF JUSTICE.

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

22 [§ 5747. STATEMENTS BY FIDELITY OR SURETY COMPANIES.

23 ANY FIDELITY OR SURETY COMPANY, AUTHORIZED TO ACT AS SURETY  
24 WITHIN THIS COMMONWEALTH, MAY EXECUTE AN UNDERTAKING AS SURETY  
25 BY THE HAND OF AN OFFICER, EMPLOYEE, AGENT, OR ATTORNEY,  
26 AUTHORIZED THERETO BY A RESOLUTION OF ITS BOARD OF DIRECTORS, A  
27 CERTIFIED COPY OF WHICH, UNDER ITS CORPORATE SEAL, SHALL BE  
28 FILED WITH THE UNDERTAKING. FIDELITY OR SURETY COMPANIES ENGAGED  
29 IN THE BUSINESS OF ENTERING BAIL SHALL FILE, WITH THE CLERK OF  
30 THE COURT OF COMMON PLEAS AND WITH THE DISTRICT ATTORNEY OF EACH

1 COUNTY IN WHICH BAIL IS ENTERED, A STATEMENT, QUARTERLY ON WHICH  
2 SHALL APPEAR A SUMMARY OF ALL BAIL ENTERED BY SUCH COMPANY  
3 DURING THE PREVIOUS QUARTER, TOGETHER WITH THE COMPENSATION  
4 CHARGED THEREFOR.]

5 SECTION 7. TITLE 42 IS AMENDED BY ADDING A SECTION TO READ:  
6 § 5747.1. FORFEITED UNDERTAKING.

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

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

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

26 (2) PAYMENT OF FORFEITED UNDERTAKING SHALL BE MADE  
27 DIRECTLY TO THE OFFICE OF THE CLERK NOT LATER THAN THE CLOSE  
28 OF BUSINESS ON THE 91ST DAY FOLLOWING THE SERVICE OF THE  
29 NOTICE OF REVOCATION. IF THE DEFENDANT HAS BEEN RECOVERED AND  
30 PLACED INTO CUSTODY THROUGH THE EFFORTS OF THE BAIL BONDSMAN

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

12 (3) FAILURE TO RENDER PAYMENT OF THE FORFEITED  
13 UNDERTAKING BY CLOSE OF BUSINESS ON THE 91ST DAY SHALL BAR  
14 ANY RIGHT OF REMISSION TO COLLECT FUNDS PURSUANT TO THE  
15 FORFEITED UNDERTAKING.

16 (4) THE OFFICE OF THE CLERK SHALL PROVIDE A SUMMARY  
17 QUARTERLY STATEMENT OF ALL OVERDUE FORFEITED UNDERTAKINGS  
18 WHICH HAVE NOT BEEN PAID BY EACH BAIL BONDSMAN AND  
19 INSURER. THE BAIL BONDSMAN OR INSURER SHALL BE AFFORDED 30  
20 DAYS FROM THE DATE OF THE STATEMENT TO RENDER PAYMENT OF THE  
21 FORFEITED UNDERTAKINGS. FAILURE TO RENDER PAYMENT BY CLOSE OF  
22 BUSINESS ON THE 31ST DAY SHALL RESULT IN SUSPENSION OF THE  
23 ABILITY TO CONDUCT BUSINESS OF BOTH THE BAIL BONDSMAN AND THE  
24 INSURER IN THAT JUDICIAL DISTRICT UNTIL SUCH TIME AS PAYMENT  
25 IS RENDERED IN FULL. THE BAIL BONDSMAN MAY BE SUBJECT TO  
26 FORMAL SUSPENSION OR NONRENEWAL PROCEEDINGS PURSUANT TO  
27 SECTION 5746. IN ADDITION, THE INSURER MAY BE SUBJECTED TO  
28 FURTHER ADMINISTRATIVE PENALTIES, TO BE DETERMINED BY THE  
29 DEPARTMENT, CONSISTENT WITH THE ACT OF JULY 22, 1974  
30 (P.L.589, NO.205), KNOWN AS THE UNFAIR INSURANCE PRACTICES

1 ACT, OR OTHER APPLICABLE LAW.

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

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

12 (II) IF THE DEFENDANT IS RECOVERED BETWEEN SIX  
13 MONTHS AND ONE YEAR AFTER THE ORDER OF REVOCATION OR  
14 FORFEITURE, THE SURETY SHALL RECOVER 80% OF THE VALUE OF  
15 THE FORFEITED AMOUNT OF THE BOND.

16 (III) IF THE DEFENDANT IS RECOVERED BETWEEN ONE AND  
17 TWO YEARS AFTER THE ORDER OF REVOCATION OR FORFEITURE,  
18 THE SURETY SHALL RECOVER 50% OF THE VALUE OF THE  
19 FORFEITED AMOUNT OF THE BOND.

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

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

30 [§ 5748. MAXIMUM PREMIUMS.

1 (A) GENERAL RULE.--NO PROFESSIONAL BONDSMAN SHALL CHARGE A  
2 PREMIUM OR COMPENSATION FOR ACTING AS SURETY ON ANY UNDERTAKING  
3 IN EXCESS OF 10% FOR THE FIRST \$100, AND 5% FOR EACH ADDITIONAL  
4 \$100 OF SUCH UNDERTAKING.

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

9 SECTION 9. TITLE 42 IS AMENDED BY ADDING A SECTION TO READ:  
10 § 5748.1. PRIVATE CAUSE OF ACTION.

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

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

24 SECTION 10. SECTION 5749 OF TITLE 42 IS AMENDED TO READ:  
25 § 5749. PROHIBITIONS AND PENALTIES.

26 (A) LICENSING.--ANY PERSON WHO ENGAGES IN THE BUSINESS [AS]  
27 OF A [PROFESSIONAL] BAIL BONDSMAN WITHOUT BEING REGISTERED AND  
28 LICENSED IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBCHAPTER,  
29 OR WHO ENGAGES IN SUCH BUSINESS WHILE HIS LICENSE IS SUSPENDED  
30 OR REVOKED, COMMITS A MISDEMEANOR OF THE THIRD DEGREE.



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

5 (C) SOLICITING.--ANY PERSON WHO ACCEPTS ANY FEE OR  
6 COMPENSATION FOR OBTAINING A BONDSMAN OR A RECOGNIZANCE COMMITS  
7 A SUMMARY OFFENSE.

8 (D) OTHER VIOLATIONS.--ANY PERSON WHO VIOLATES ANY SECTION  
9 OF THIS SUBCHAPTER FOR WHICH NO SPECIFIC PENALTY OTHER THAN  
10 SUSPENSION OR REVOCATION OF LICENSE IS PROVIDED COMMITS A  
11 SUMMARY OFFENSE.

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

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

23 SECTION 11. TITLE 42 IS AMENDED BY ADDING A SECTION TO READ:  
24 § 5750. THIRD PARTY SURETIES.

25 (A) RESPONSIBILITIES.--A THIRD PARTY SURETY MUST REPORT A  
26 VIOLATION OF A BAIL BOND CONDITION IF THE VIOLATION IS RELATED  
27 TO ANY OF THE FOLLOWING:

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

30 (2) AN ORDER ISSUED BY A MAGISTERIAL DISTRICT JUDGE,

1 COURT OF COMMON PLEAS OR OTHER JUDICIAL OFFICER UNDER 23  
2 PA.C.S. CH. 61 (RELATING TO PROTECTION FROM ABUSE).

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

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

8 (I) 18 PA.C.S. CH. 25 (RELATING TO CRIMINAL  
9 HOMICIDE).

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

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

12 (IV) 18 PA.C.S. CH. 31 (RELATING TO SEXUAL  
13 OFFENSES).

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

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

19 (VII) 75 PA.C.S. § 3732 (RELATING TO HOMICIDE BY  
20 VEHICLE).

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

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

25 (5) A CRIME ELIGIBLE FOR SENTENCING UNDER SECTION  
26 9714(G) (RELATING TO SENTENCES FOR SECOND AND SUBSEQUENT  
27 OFFENSES).

28 (B) REPORTING.--

29 (1) A THIRD PARTY SURETY MUST:

30 (I) REPORT A VIOLATION UNDER SUBSECTION (A) WITHIN

1 24 HOURS AFTER RECEIVING NOTICE OF THE VIOLATION,  
2 VERBALLY OR IN WRITING, TO THE LAW ENFORCEMENT AGENCY IN  
3 THE JURISDICTION RESPONSIBLE FOR THE CRIMINAL CASE OR  
4 WHERE THE VIOLATION OCCURRED; AND

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

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

17 (3) THE REQUIREMENT UNDER PARAGRAPH (1) (II) MAY BE  
18 SATISFIED BY HAND DELIVERY, UNITED STATES MAIL, FACSIMILE OR  
19 ELECTRONIC MAIL.

20 (C) PENALTY.--

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

25 (I) THE UNREPORTED VIOLATION OF A CONDITION  
26 IDENTIFIED UNDER SUBSECTION (A) RESULTED IN BODILY INJURY  
27 OR PROPERTY DAMAGE IN EXCESS OF \$10,000; AND

28 (II) EITHER OF THE FOLLOWING APPLY:

29 (A) THE TERMS OF THE BAIL CONDITION ARE KNOWN TO  
30 THE THIRD PARTY SURETY PRIOR TO BODILY INJURY OR

1 PROPERTY DAMAGE BEING SUSTAINED AND THE THIRD PARTY  
2 SURETY RECEIVED NOTICE OF THE VIOLATION OF THE  
3 CONDITION WITH SUFFICIENT REASONABLE TIME TO MAKE THE  
4 REPORT PRIOR TO THE BODILY INJURY OR PROPERTY DAMAGE  
5 BEING SUSTAINED.

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

11 (2) IF A COURT OF COMMON PLEAS IMPOSES A PENALTY UNDER  
12 PARAGRAPH (1), A THIRD PARTY SURETY SHALL BE ASSESSED A CIVIL  
13 PENALTY IN AN AMOUNT OF NOT LESS THAN \$500 NOR MORE THAN  
14 \$5,000. THE FOLLOWING SHALL APPLY:

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

29 (II) ANY FUNDS RECEIVED AS A CIVIL PENALTY UNDER  
30 THIS PARAGRAPH MUST BE RETAINED AND BE USED BY THE

1 DISTRICT ATTORNEY TO PROVIDE VICTIM SERVICES.

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

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

11 (I) FAILURE TO REPORT A KNOWN VIOLATION UNDER  
12 SUBSECTION (A), IF THE THIRD PARTY SURETY PROVIDES  
13 EVIDENCE THAT THE VIOLATION WAS REPORTED TO A LAW  
14 ENFORCEMENT AGENCY UNDER SUBSECTION (B).

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

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

24 (A) THE THIRD PARTY SURETY PROVIDES EVIDENCE  
25 THAT THE THIRD PARTY SURETY REVIEWED THE BAIL  
26 CONDITIONS WITH THE DEFENDANT WITHIN 24 HOURS OF  
27 RELEASE AND DURING INSTANCES OF CONTACT BETWEEN THE  
28 THIRD PARTY SURETY AND THE DEFENDANT; AND

29 (B) IF THE DEFENDANT INDICATED A WILLINGNESS TO  
30 COMMIT A VIOLATION UNDER SUBSECTION (A), THE THIRD

1           PARTY SURETY REPORTED THE RISK TO THE ATTORNEY FOR  
2           THE COMMONWEALTH OR THE LAW ENFORCEMENT AGENCY, IF  
3           THE ATTORNEY FOR THE COMMONWEALTH IS UNAVAILABLE.

4           (D) BAIL FORFEITURE.--NOTHING UNDER THIS SECTION SHALL  
5           PRECLUDE THE ATTORNEY FOR THE COMMONWEALTH FROM SEEKING A BAIL  
6           FORFEITURE DIRECTLY FROM THE DEFENDANT.

7           (E) APPLICABILITY.--THIS SECTION SHALL APPLY TO THIRD PARTY  
8           SURETIES.

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

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