

SENATE BILL REPORT

SHB 1870

AS REPORTED BY COMMITTEE ON LABOR & COMMERCE, MARCH 26, 1993

Brief Description: Licensing bail bond agents.

SPONSORS: House Committee on Financial Institutions & Insurance (originally sponsored by Representatives Zellinsky, Heavey and R. Meyers)

HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

HOUSE COMMITTEE ON APPROPRIATIONS

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: Do pass as amended.

Signed by Senators Moore, Chairman; Prentice, Vice Chairman; Amondson, Fraser, McAuliffe, Newhouse, Pelz, Prince, Sutherland, and Vognild.

Staff: Traci Ratzliff (786-7452)

Hearing Dates: March 22, 1993; March 26, 1993

BACKGROUND:

Under current state law, insurance agents and brokers who issue bail bond insurance must be licensed as insurance agents and brokers and take the insurance exam. Other individuals who operate or are employed in the bail bond business are not required to be licensed.

SUMMARY:

A statewide licensing program is established for bail bond agents and bail bond agencies. This program is administered by the Department of Licensing.

Requirements for obtaining a license: To obtain a license as a bail bond agent a person must: be at least 21 years of age; be a U.S. citizen or resident alien; not have been convicted in the last ten years of a crime that is related to the duties of a bail bond agent; be employed by a bail bond agency or be licensed as a bail bond agency; and pay the required fee. To obtain a license as a bail bond agency a person must be 21 years old, pass an examination or have had at least three years' experience as a manager, supervisor, or administrator in a bail bond business or a related field, and pay any additional fees.

Licenses: After receiving an application for a license, the Director of Licensing may conduct an investigation to verify the validity of the information on the application and may

conduct a fingerprint check. The director will issue a license card to each licensed bail bond agent.

The director will issue a license certificate to each licensed bail bond agency. The certificate must be posted at the principal office of the licensee. Any advertisement must contain the name of the licensee, the address of record and the license number.

Training: The department will adopt rules, with the advice of the bail bond industry, establishing pre-licensing training and testing requirements. Pre-licensing training and testing will include at least four hours of classes. A bail bond agent need not fulfill the training requirements if within 60 days prior to July 1, 1994, proof is provided to the director that he or she previously has met the training requirements or has been employed as a bail bond agent for at least 18 months.

Insurance: A bail bond agency must post a \$40,000 bond or, in lieu of a bond, a bail bond agency may carry comprehensive general liability insurance of at least \$40,000.

Unlawful acts: After June 30, 1994, it is a gross misdemeanor for a person to act as a bail bond agent without obtaining a license or for an owner or qualified agent of a bail bond agency to employ an unlicensed bail bond agent. A bail bond agent commits a gross misdemeanor if he or she:

- (1) attempts to use the license of another;
- (2) gives false or forged evidence to the director in obtaining a license;
- (3) falsely impersonates another licensee;
- (4) attempts to use an expired or revoked license; or
- (5) violates any of the provisions of this chapter.

After January 1, 1994, it is a gross misdemeanor for a person to own or operate a bail bond agency without obtaining a bail bond agency license.

Recordkeeping requirements: Every licensed bail bond agent is required to keep adequate records for three years of all security received, all trust accounts required by this act, and all bail bond transactions handled. The records are open to inspection without notice by the director.

Every bail bond agent is required to keep a trust account in a federally insured financial institution located in the state. All moneys received as collateral for a bail bond must be deposited in the trust account no later than three banking days following the receipt of the money. Every bail bond agent required to maintain a trust account must report annually to the director the account number and balance of the trust account and the name and address of the institution that holds the trust account. If the trust account is change or relocated or a new trust account is opened, the bail bond agent must report this information to the director within ten business days.

Failure to comply with these recordkeeping or fiduciary responsibilities is considered an unfair or deceptive act in trade or commerce for the purpose of applying the Consumer Protection Act, Chapter 19.86 RCW.

Ground for discipline or denial or revocation of a license: The 18 prohibited acts that are grounds for disciplinary action or denial, suspension or revocation of a license are listed.

Director's authority: The director is given authority to: amend and rescind rules; issue subpoenas and administer oaths; take depositions; compel attendance of witnesses; establish fees by rule; order summary suspension in emergencies; use the office of administrative hearings; enter into contracts for professional services; adopt standards of professional conduct; impose sanctions for unprofessional conduct; enter into an assurance of discontinuance in lieu of issuing a statement of charges or conducting a hearing; and compel attendance of witnesses at hearings. The director may enforce the payment of unpaid fines in superior court.

Civil action: Any person or governmental agency may maintain an action to enjoin any unlicensed person from continuing to engage in the profession. A civil penalty of up to \$25,000 may be imposed on a person who violates an injunction.

Immunity from suit: The director and individuals acting on the director's behalf are immune from suit based on official acts performed in the course of their duties under this chapter.

SUMMARY OF PROPOSED SENATE AMENDMENT:

The minimum age of an individual seeking a bail bond or bail bond agency license is changed from 21 to 18 years old.

The bonding requirements for bail bond agencies are modified. A bail bond agency must file a bond in the amount of \$10,000 with the director of Licensing. In lieu of posting a bond, the agency may deposit \$10,000 in an interest bearing account. The director of Licensing has the authority to waive the bond requirements.

Language is included to clarify the conditions and timing under which a bail bond agency is required to return the collateral or security of a client.

Appropriation: none

Revenue: none

Fiscal Note: available

TESTIMONY FOR:

The striking amendment provides further improvements to the original bill that provides a good mechanism for the regulation of this industry and the protection of consumers utilizing the services of bail bond agencies.

TESTIMONY AGAINST: None

TESTIFIED: Gordon Walgren, Washington Association of Bail Bond Agencies (pro); Pat Sainsbury, King County Prosecutor's Office (pro)