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HOUSE BILL NO. 3208

Offered January 22, 2007

An Act to amend and reenact §§ 9.1-185 and 9.1-185.8 of the Code of Virginia, relating to the Department of Criminal Justice Services; bail bondsmen.

Patrons—Ware, O. and Griffith

Unanimous consent to introduce

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-185 and 9.1-185.8 of the Code of Virginia are amended and reenacted as follows:

§ 9.1-185. Definitions.

As used in this article, unless the context requires a different meaning:

"Agent" means a person who is a licensed bail bondsman who has been given power of attorney to act on the behalf of a licensed property bail bondsman.

"Bail bondsman" means any person who is licensed by the Department who engages in the business of bail bonding and is thereby authorized to conduct business in all courts of the Commonwealth.

"Board" means the Criminal Justice Services Board.

"Certificate" means a certificate issued by a judge on or before June 30, 2005, pursuant to former § 19.2-152.1.

"Department" means the Department of Criminal Justice Services.

"Property bail bondsman" means a person licensed pursuant to this article who, for compensation, enters into a bond or bonds for others, whether as a principal or surety, or otherwise or does so through his agent and who pledges real property, cash or certificates of deposit issued by a federally insured institution, or any combination thereof as security for a bond as defined in § 19.2-119 that has been posted to assure performance of terms and conditions specified by order of an appropriate judicial officer as a condition of bail.

"Surety bail bondsman" means a person licensed pursuant to this article who is also licensed by the State Corporation Commission as a property and casualty insurance agent, and who sells, solicits, or negotiates surety insurance as defined in § 38.2-121 on behalf of insurers licensed in the Commonwealth, pursuant to which the insurer becomes surety on or guarantees a bond, as defined in § 19.2-119, that has been posted to assure performance of terms and conditions specified by order of an appropriate judicial officer as a condition of bail.

§ 9.1-185.8. Professional conduct standards; grounds for disciplinary actions.

A. Any violations of the restrictions or standards under this statute shall be grounds for placing on probation, refusal to issue or renew, sanctioning, suspension or revocation of the bail bondsman's license. A licensed bail bondsman is responsible for ensuring that his employees, partners and individuals contracted to perform services for or on behalf of the bonding business comply with all of these provisions, and do not violate any of the restrictions that apply to bail bondsmen. Violations by a bondsman's employee, partner, or agent may be grounds for disciplinary action against the bondsman, including probation, suspension or revocation of license.

B. A licensed bail bondsman shall not:

1. Knowingly commit, or be a party to, any material fraud, misrepresentation, concealment, conspiracy, collusion, forgery, scheme or device whereby any other person lawfully relies upon the word, representation, or conduct of the bail bondsman.

2. Solicit sexual favors or extort additional consideration as a condition of obtaining, maintaining, or exonerating bail bond, regardless of the identity of the person who performs the favors.

3. Conduct a bail bond transaction that demonstrates bad faith, dishonesty, coercion, incompetence, extortion or untrustworthiness.

4. Coerce, suggest, aid and abet, offer promise of favor, or threaten any person on whose bond he is surety or offers to become surety, to induce that person to commit any crime.

5. Give or receive, directly or indirectly, any gift of any kind to any nonelected public official or any employee of a governmental agency involved with the administration of justice, including but not limited to law-enforcement personnel, magistrates, judges, and jail employees, as well as attorneys. De minimis gifts, not to exceed \$50 per year per recipient, are acceptable, provided the purpose of the gift is not to directly solicit business, or would otherwise be a violation of Board regulations or the laws of the Commonwealth.

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- 59 6. Fail to comply with any of the statutory or regulatory requirements governing licensed bail
60 bondsmen.
- 61 7. Fail to cooperate with any investigation by the Department.
- 62 8. Fail to comply with any subpoena issued by the Department.
- 63 9. Provide materially incorrect, misleading, incomplete or untrue information in a license application,
64 renewal application, or any other document filed with the Department.
- 65 10. Provide bail for any person if he is also an attorney representing that person.
- 66 11. Provide bail for any person if the bondsman was initially involved in the arrest of that person.
- 67 C. A licensed bail bondsman shall ensure that each recognizance on all bonds for which he signs
68 shall contain the name and contact information for both the surety agent and the registered agent of the
69 issuing company.
- 70 D. An administrative fee may be charged by a bail bondsman, not to exceed reasonable costs.
71 Reasonable costs may include, but are not limited to, travel, court time, recovery fees, phone expenses,
72 administrative overhead and postage.
- 73 E. A property bail bondsman shall not enter into any bond if the aggregate of the penalty of such
74 bond and all other bonds, on which he has not been released from liability, is in excess of *four times*
75 the true market value of the equity in his real estate, cash or certificates of deposit issued by a federally
76 insured institution, or any combination thereof.
- 77 F. A property bail bondsman or his agent shall not refuse to cover any forfeiture of bond against him
78 or refuse to pay such forfeiture after notice and final order of the court.
- 79 G. A surety bail bondsman shall not write bail bonds on any qualifying power of attorney for which
80 a copy has not been filed with the Department.
- 81 H. A surety bail bondsman shall not violate any of the statutes or regulations that govern insurance
82 agents.