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HOUSE BILL NO. 2314

Offered January 22, 2015

A *BILL to amend and reenact §§ 9.1-185.8, 9.1-185.14, 9.1-186.8, and 9.1-186.11 of the Code of Virginia, relating to bail bondsmen and bail enforcement agents; license suspension; reporting.*

Patron—Wilt

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-185.8, 9.1-185.14, 9.1-186.8, and 9.1-186.11 of the Code of Virginia are amended and reenacted as follows:

§ 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.

6. Fail to comply with any of the statutory or regulatory requirements governing licensed bail bondsmen.

7. Fail to cooperate with any investigation by the Department.

8. Fail to comply with any subpoena issued by the Department.

9. Provide materially incorrect, misleading, incomplete or untrue information in a license application, renewal application, or any other document filed with the Department.

10. Provide bail for any person if he is also an attorney representing that person.

11. Provide bail for any person if the bondsman was initially involved in the arrest of that person.

C. A licensed bail bondsman shall ensure that each recognizance on all bonds for which he signs shall contain the name and contact information for both the surety agent and the registered agent of the issuing company.

D. An administrative fee may be charged by a bail bondsman, not to exceed reasonable costs. Reasonable costs may include, but are not limited to, travel, court time, recovery fees, phone expenses, administrative overhead and postage.

E. A property bail bondsman shall not enter into any bond if the aggregate of the penalty of such bond and all other bonds, on which he has not been released from liability, is in excess of four times the true market value of the equity in his real estate, cash or certificates of deposit issued by a federally insured institution, or any combination thereof.

F. A property bail bondsman or his agent shall not refuse to cover any forfeiture of bond against him or refuse to pay such forfeiture after notice and final order of the court.

G. A surety bail bondsman shall not write bail bonds on any qualifying power of attorney for which a copy has not been filed with the Department.

H. A surety bail bondsman shall not violate any of the statutes or regulations that govern insurance

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59 agents.

60 I. A licensed bail bondsman shall not charge a bail bond premium less than 10 percent or more than
61 15 percent of the amount of the bond. A licensed bail bondsman shall not loan money with interest for
62 the purpose of helping another obtain a bail bond.

63 For the purposes of this ~~section~~ subsection, a "bail bond premium is defined as" means the amount
64 of money paid to a licensed bail bondsman for the execution of a bail bond.

65 J. *The Department shall suspend the license of any bail bondsman who has been arrested for a*
66 *felony offense during the pendency of his case.*

67 **§ 9.1-185.14. Reporting standards and requirements.**

68 A. Each licensed bail bondsman shall report within ~~30~~ 10 calendar days to the Department any
69 change in his residence, name, business name or business address, and ensure that the Department has
70 the names and all fictitious names of all companies under which he carries out his bail bonding
71 business.

72 B. Each licensed bail bondsman *arrested for or* convicted of a felony shall report within ~~30~~ 10
73 calendar days to the Department the facts and circumstances regarding the criminal *arrest or* conviction.

74 C. Each licensed bail bondsman shall report to the Department within ~~30~~ 10 calendar days of the
75 final disposition of the matter any administrative action taken against him by another governmental
76 agency in the Commonwealth or in another jurisdiction. Such report shall include a copy of the order,
77 consent to order or other relevant legal documents.

78 D. Each licensed property bail bondsman shall submit to the Department, on a prescribed form, not
79 later than the fifth day of each month, a list of all outstanding bonds on which he was obligated as of
80 the last day of the preceding month, together with the amount of the penalty of each such bond.

81 E. Each licensed property bail bondsman shall report to the Department any change in the number of
82 agents in his employ within seven days of such change and concurrently provide proof of collateral of
83 \$200,000 for each new agent, in accordance with subsection C of § 9.1-185.5.

84 F. Each licensed surety bail bondsman shall report to the Department within 30 days any change in
85 his employment or agency status with a licensed insurance company. If the surety bail bondsman
86 receives a new qualifying power of attorney from an insurance company, he shall forward a copy
87 thereof within 30 days to the Department, in accordance with subdivision D 2 of § 9.1-185.5.

88 G. Each licensed property bail bondsman shall report to the Department within five business days if
89 any new lien, encumbrance, or deed of trust is placed on any real estate that is being used as collateral
90 on his or his agents' bonds as well as the amount it is securing. The reporting requirement deadline is
91 deemed to begin as soon as the licensed property bail bondsman learns of the new lien, encumbrance, or
92 deed of trust, or should have reasonably known that such a lien, encumbrance, or deed of trust had been
93 recorded.

94 **§ 9.1-186.8. Professional conduct standards; grounds for disciplinary actions.**

95 A. Any violations of the restrictions or standards under subsection B shall be grounds for placing on
96 probation, refusal to issue or renew, sanctioning, suspension or revocation of the bail enforcement
97 agent's license. A licensed bail enforcement agent is responsible for ensuring that his employees,
98 partners and individuals contracted to perform services for or on his behalf comply with all of these
99 provisions, and do not violate any of the restrictions that apply to bail enforcement agents. Violations by
100 a bail enforcement agent's employee, partner or agent may be grounds for disciplinary action against the
101 bail enforcement agent, including probation, suspension, or revocation of license.

102 B. A licensed bail enforcement agent shall not:

103 1. Engage in any fraud or willful misrepresentation, or provide materially incorrect, misleading,
104 incomplete or untrue information in applying for an original license, or renewal of an existing license, or
105 in submitting any documents to the Department.

106 2. Use any letterhead, advertising, or other printed matter in any manner representing that he is an
107 agent, employee, or instrumentality of the federal government, a state, or any political subdivision of a
108 state.

109 3. Impersonate, permit or aid and abet any employee to impersonate, a law-enforcement officer or
110 employee of the United States, any state, or a political subdivision of a state.

111 4. Use a name different from that under which he is currently licensed for any advertising,
112 solicitation, or contract to secure business unless the name is an authorized fictitious name.

113 5. Coerce, suggest, aid and abet, offer promise of favor, or threaten any person to induce that person
114 to commit any crime.

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

121 7. Knowingly violate, advise, encourage, or assist in the violation of any statute, court order, or
 122 injunction in the course of conducting activities regulated under this chapter.

123 8. Solicit business for an attorney in return for compensation.

124 9. Willfully neglect to render to a client services or a report as agreed between the parties and for
 125 which compensation has been paid or tendered in accordance with the agreement of the parties, but if
 126 the bail enforcement agent chooses to withdraw from the case and returns the funds for work not yet
 127 done, no violation of this section exists.

128 10. Fail to comply with any of the statutory or regulatory requirements governing licensed bail
 129 enforcement agents.

130 11. Fail or refuse to cooperate with any investigation by the Department.

131 12. Fail to comply with any subpoena issued by the Department.

132 13. Employ or contract with any unlicensed or improperly licensed person or agency to conduct
 133 activities regulated under this article, if the licensure status was known or could have been ascertained
 134 by reasonable inquiry.

135 14. Solicit or receive a bribe or other consideration in exchange for failing to recover or detain a
 136 bailee.

137 C. The Department shall have the authority to place on probation, suspend or revoke a bail
 138 enforcement agent's license if an agent is arrested or issued a summons for a criminal offense, or
 139 becomes the subject of a protective order, *and the Department shall suspend the license of any bail*
 140 *enforcement agent who has been arrested for a felony offense during the pendency of his case.*

141 **§ 9.1-186.11. Reporting standards and requirements.**

142 A. Each licensed bail enforcement agent shall report within ~~30~~ 10 calendar days to the Department
 143 any change in his residence, name, or business name or business address, and ensure that the
 144 Department has the names and fictitious names of all companies under which he carries out his bail
 145 recovery business.

146 B. Each licensed bail enforcement agent arrested or issued a summons for any crime shall report
 147 such fact within ~~30~~ 10 calendar days to the Department, and shall report to the Department within ~~30~~ 10
 148 days the facts and circumstances regarding the final disposition of his case.

149 C. Each licensed bail enforcement agent shall report to the Department within ~~30~~ 10 calendar days of
 150 the final disposition any administrative action taken against him by another governmental agency in ~~this~~
 151 *the* Commonwealth or in another jurisdiction. Such report shall include a copy of the order, consent to
 152 order or other relevant legal documents.