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HOUSE BILL NO. 2314

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice on February 23, 2015)

(Patron Prior to Substitute—Delegate Wilt)

A BILL to amend and reenact §§ 9.1-185.8, 9.1-185.14, and 9.1-186.11 of the Code of Virginia, relating to bail bondsmen and bail enforcement agents; arrest for felony offense; reporting.

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-185.8, 9.1-185.14, 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 agents.

I. A licensed bail bondsman shall not charge a bail bond premium less than 10 percent or more than

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60 15 percent of the amount of the bond. A licensed bail bondsman shall not loan money with interest for
61 the purpose of helping another obtain a bail bond.

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

64 *J. A licensed bail bondsman who has been arrested for a felony offense shall not issue any new*
65 *bonds during the pendency of his case.*

66 **§ 9.1-185.14. Reporting standards and requirements.**

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

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

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

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

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

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

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

93 **§ 9.1-186.11. Reporting standards and requirements.**

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

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

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