

BAIL BOND AGENT LICENSURE ACT

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: Susan J. Koehn

AN ACT RELATING TO PUBLIC SAFETY; CREATING A LICENSURE ACT FOR PERSONS INVOLVED IN BAIL BOND RECOVERY; PROVIDING DEFINITIONS; CREATING A LICENSURE BOARD; CREATING CLASSIFICATIONS OF LICENSURE; ESTABLISHING APPLICATION REQUIREMENTS AND QUALIFICATIONS; ESTABLISHING FEES; AND CREATING GROUNDS FOR DISCIPLINARY ACTION.

This act affects sections of Utah Code Annotated 1953 as follows:

h AMENDS:

77-20-8.5, as enacted by Chapter 160, Laws of Utah 1988 h

ENACTS:

53-10-101, Utah Code Annotated 1953

53-10-102, Utah Code Annotated 1953

53-10-103, Utah Code Annotated 1953

53-10-104, Utah Code Annotated 1953

53-10-105, Utah Code Annotated 1953

53-10-106, Utah Code Annotated 1953

53-10-107, Utah Code Annotated 1953

53-10-108, Utah Code Annotated 1953

53-10-109, Utah Code Annotated 1953

53-10-110, Utah Code Annotated 1953

53-10-111, Utah Code Annotated 1953

53-10-112, Utah Code Annotated 1953

53-10-113, Utah Code Annotated 1953

53-10-114, Utah Code Annotated 1953

53-10-115, Utah Code Annotated 1953

53-10-116, Utah Code Annotated 1953

1 (b) receives or is promised monies or other things of value for this service.

2 (4) "Bail recovery agent" means an individual employed by a bail enforcement agent to
3 assist the bail enforcement agent regarding civil or criminal defendants released on bail by:

4 (a) presenting a defendant for required court appearances;

5 (b) apprehending or surrendering a defendant to a court; or

6 (c) keeping the defendant under necessary surveillance.

7 (5) "Bail recovery apprentice" means any individual licensed under this chapter as a bail
8 recovery apprentice, and who:

9 (a) has not met the requirements for licensure as a bail recovery agent or bail enforcement
10 agent; and

11 (b) is employed by a bail enforcement agent, and works under the direct supervision of a
12 bail enforcement agent or bail recovery agent employed also by the bail enforcement agent, unless
13 the bail recovery apprentice is conducting activities at the direction of the employing bail
14 enforcement agent that under this chapter do not require direct supervision.

15 (6) "Board" means the Bail Bond Recovery Licensure Board created under Section
16 53-10-104.

17 (7) "Commissioner" means the commissioner of public safety as defined under Section
18 53-1-107, or his designee.

19 (8) "Contract employee" or "independent contractor" means a person who works for an
20 agency as an independent contractor.

21 (9) "Conviction" means an adjudication of guilt by a federal, state, or local court resulting
22 from a trial or plea, including a plea of no contest or nolo contendere, regardless of whether the
23 imposition of sentence was suspended.

24 (10) "Department" means the Department of Public Safety.

25 (11) "Direct supervision" means a bail enforcement agent employing or contracting with
26 a bail recovery apprentice, or a bail recovery agent employed by or contracting with that bail
27 enforcement agent:

28 (a) takes responsibility for and assigns the work a bail recovery apprentice may conduct;
29 and

30 (b) closely supervises, within close physical proximity, and provides direction and
31 guidance to the bail recovery apprentice regarding the assigned work.

1 (12) "Emergency action" means a summary suspension of a license issued under this
2 chapter pending revocation, suspension, or probation, in order to protect the public health, safety,
3 or welfare.

4 (13) "Identification card" means a card issued by the commissioner to an applicant
5 qualified for licensure under this chapter.

6 (14) "Letter of concern" means an advisory letter to notify a licensee that while there is
7 insufficient evidence to support probation, suspension, or revocation of a license, the department
8 believes:

9 (a) the licensee should modify or eliminate certain practices; and

10 (b) continuation of the activities that led to the information being submitted to the
11 department may result in further disciplinary action against the license.

12 (15) "Occupied structure" means any edifice, including residential and public buildings,
13 vehicles, or any other structure that could reasonably be expected to house or shelter persons.

14 (16) "Supervision" means the employing bail enforcement agent is responsible for and
15 authorizes the type and extent of work assigned to a bail recovery agent who is his employee or
16 contract employee.

17 (17) "Unprofessional conduct" means:

18 (a) engaging or offering to engage by fraud or misrepresentation in any activities regulated
19 by this chapter;

20 (b) aiding or abetting a person who is not licensed pursuant to this chapter in representing
21 that person as a bail recovery agent in this state;

22 (c) gross negligence in the practice of a bail recovery agent;

23 (d) committing a felony or a misdemeanor involving any crime that is grounds for denial,
24 suspension, or revocation of a bail recovery license, and conviction by a court of competent
25 jurisdiction or a plea of no contest is conclusive evidence of the commission; or

26 (e) making a fraudulent or untrue statement to the board, department, its investigators, or
27 staff.

28 Section 3. Section **53-10-103** is enacted to read:

29 **53-10-103. Commissioner of Public Safety administers -- Licensure -- Rulemaking.**

30 (1) The commissioner administers this chapter, including keeping records of:

31 (a) all applications for licenses under this chapter; and

1 (b) ~~h~~ [all bonds and] h proof of workers' compensation required to be filed.

2 (2) Records shall include statements as to whether a license or renewal license has been
3 issued for each application and bond.

4 (3) If a license is revoked, suspended, or canceled, or a license is denied or placed on
5 probation, the commissioner shall ensure the date of filing the order for revocation, suspension,
6 cancellation, denial, or probation is included in the records.

7 (4) The commissioner shall maintain a list of all individuals, firms, partnerships,
8 associations, or corporations that have had a license revoked, suspended, placed on probation, or
9 canceled and a written record of complaints filed against licensees.

10 (5) (a) The commissioner may make rules in accordance with Title 63, Chapter 46a, Utah
11 Administrative Rulemaking Act, as necessary to administer this chapter.

12 (b) These rules shall include a requirement that all providers offering instruction or
13 continuing instruction required for licensure under this chapter shall offer the courses to all
14 applicants at the same course fees, in order to be qualified by the board.

15 (6) All records referred to under this section are open to the public under Title 63, Chapter
16 2, Government Records Access and Management Act, except licensees' residential addresses and
17 telephone numbers.

18 Section 4. Section **53-10-104** is enacted to read:

19 **53-10-104. Board.**

20 (1) (a) There is established under the Department of Public Safety a Bail Bond Recovery
21 Licensure Board consisting of ~~h~~ [seven] FIVE h members appointed by the commissioner.

22 (b) The commissioner may appoint, in accordance with this section, persons who are also
23 servicing in the same capacity on the Private Investigator Hearing and Licensure Board under
24 Section 53-9-104.

25 (2) Each member of the board shall be a citizen of the United States and a resident of this
26 state at the time of appointment:

27 (a) ~~h~~ [two] ONE h members shall be persons who are qualified for and are licensed under this
27a chapter;

28 (b) one member shall be a an attorney licensed to practice in the state;

29 (c) one member shall be a chief of police or sheriff;

30 ~~h~~ [(d) one member shall be a judge currently sitting on a district court bench;]

31 [(e)] (d) h one member shall be an owner of a bail bond surety company who is not a bail

1 enforcement agent or a bail recovery agent; and

2 h [(f)] (e) h one member shall be a public member who does not have:

3 (i) a financial interest in a bail bond surety or bail bond recovery business; and

4 (ii) an immediate family member or a household member, or a personal or professional
5 acquaintance who is licensed or registered under this chapter.

6 (3) (a) As terms of current board members expire, the commissioner shall appoint each
7 new member or reappointed member to a four-year term, except as required by Subsection (3)(b).

8 (b) The commissioner shall, at the time of appointment or reappointment, adjust the length
9 of terms to ensure that the terms of board members are staggered so that approximately half of the
10 board is appointed every two years.

11 (4) When a vacancy occurs in the membership for any reason, the replacement shall be
12 appointed for the unexpired term.

13 (5) At its first meeting every year, the board shall elect a chair and vice chair from its
14 membership.

15 (6) (a) (i) Members who are not government employees receive no compensation or
16 benefits for their services, but may receive per diem and expenses incurred in the performance of
17 the member's official duties at the rates established by the Division of Finance under Sections
18 63A-3-106 and 63A-3-107.

19 (ii) Members may decline to receive per diem and expenses for their service.

20 (b) (i) State government officer and employee members who do not receive salary, per
21 diem, or expenses from their agency for their service may receive per diem and expenses incurred
22 in the performance of their official duties from the board at the rates established by the Division
23 of Finance under Sections 63A-3-106 and 63A-3-107.

24 (ii) State government officer and employee members may decline to receive per diem and
25 expenses for their service.

26 (7) A member may not serve more than one term, except that a member appointed to fill
27 a vacancy or appointed for an initial term of less than four years under Subsection (3) may be
28 reappointed for one additional full term.

29 (8) The commissioner, after a board hearing and recommendation, may remove any
30 member of the board for misconduct, incompetency, or neglect of duty.

31 (9) Members of the board are immune from suit with respect to all acts done and actions

1 taken in good faith in carrying out the purposes of this chapter.

2 Section 5. Section **53-10-105** is enacted to read:

3 **53-10-105. Powers and duties of board.**

4 (1) The board shall:

5 (a) review all applications for licensing and renewals of licenses under this chapter and
6 approve or disapprove all applications;

7 (b) review all complaints and take disciplinary action; and

8 (c) establish standards for and approve providers of courses required for licensure under
9 this section.

10 (2) The board may take and hear evidence, administer oaths and affirmations, and compel
11 by subpoena the attendance of witnesses and the production of books, papers, records, documents,
12 and other information relating to:

13 (a) investigation of an applicant for licensure under this chapter; or

14 (b) a formal complaint against or department investigation of a bail enforcement agent,
15 bail recovery agent, or bail recovery apprentice.

16 Section 6. Section **53-10-106** is enacted to read:

17 **53-10-106. Board meetings and hearings -- Quorum.**

18 (1) The board shall meet at the call of the chair, but not less often than once each quarter.

19 (2) A quorum consists of \hat{h} [four] **THREE** \hat{h} members, but the quorum shall include one peace
19a officer,

20 one person licensed under this chapter, \hat{h} [one member who is a district court judge,] \hat{h} and one public
21 member.

22 (3) If a member has three or more unexcused absences within a 12-month period, the
23 commissioner shall determine if that board member should be released from board duties.

24 Section 7. Section **53-10-107** is enacted to read:

25 **53-10-107. Licenses -- Classifications.**

26 (1) Licenses under this chapter are issued in the classifications of:

27 (a) bail enforcement agent;

28 (b) bail recovery agent; or

29 (c) bail recovery apprentice.

30 (2) A person may not:

31 (a) act or assume to act as, or represent himself to be, a licensee unless he is licensed under

1 this chapter; or

2 (b) falsely represent that he is employed by a licensee.

3 (3) The commissioner shall issue licenses to applicants who qualify for them under this
4 chapter.

5 (4) A license issued under this chapter is not transferable or assignable.

6 Section 8. Section **53-10-108** is enacted to read:

7 **53-10-108. Licensure -- Basic qualifications.**

8 An applicant for licensure under this chapter shall meet the following qualifications:

9 (1) An applicant shall be:

10 (a) at least 21 years of age;

11 (b) a citizen or legal resident of the United States; and

12 (c) of good moral character.

13 (2) An applicant may not:

14 (a) have been convicted of:

15 (i) a felony;

16 (ii) any act involving illegally using, carrying, or possessing a dangerous weapon;

17 (iii) any act of personal violence or force on any person or convicted of threatening to
18 commit any act of personal violence or force against another person;

19 (iv) any act constituting dishonesty or fraud;

20 (v) impersonating a peace officer; or

21 (vi) any act involving moral turpitude;

22 (b) be on probation, parole, community supervision, or named in an outstanding arrest
23 warrant; or

24 (c) be employed as a peace officer.

25 (3) If previously or currently licensed in another state or jurisdiction, the applicant shall
26 be in good standing within that state or jurisdiction.

27 (4) (a) The applicant shall also have completed a training program of not less than 16
28 hours that is approved by the board and includes:

29 (i) instruction on the duties and responsibilities of a licensee under this chapter, including:

30 (A) search, seizure, and arrest procedure;

31 (B) pursuit, arrest, detainment, and transportation of a bail bond suspect; and

1 (C) specific duties and responsibilities regarding entering an occupied structure to carry
 2 out functions under this chapter;

3 (ii) the laws and rules relating to the bail bond business;

4 (iii) the rights of the accused; and

5 (iv) ethics.

6 (b) The program may be completed after the licensure application is submitted, but shall
 7 be completed before a license may be issued under this chapter.

8 (5) If the applicant desires to carry a firearm as a licensee, the applicant shall:

9 (a) successfully complete a course regarding the specified types of weapons he plans to
 10 carry. The course shall:

11 (i) be not less than 16 hours;

12 (ii) be conducted by any national, state, or local firearms training organization approved
 13 by the Law Enforcement and Technical Services Division created in Section 53-5-103; and

14 (iii) provide training regarding general familiarity with the types of firearms to be

15 h [concealed] CARRIED h , including:

16 (A) the safe loading, unloading, storage, and carrying of the types of firearms to be
 17 concealed; and

18 (B) current laws defining lawful use of a firearm by a private citizen, including lawful
 19 self-defense, use of deadly force, transportation, and concealment; and

20 (b) shall hold a valid license to carry a concealed weapon, issued under Section 53-5-704.

21 Section 9. Section 53-10-109 is enacted to read:

22 **53-10-109. Licensure -- Bail enforcement agent.**

23 (1) (a) In addition to the requirements in Sections 53-10-108 and 53-10-110, an applicant
 24 for licensure as a bail enforcement agent shall have a minimum of 2,000 hours of experience
 25 consisting of either actual bail recovery work, or work as a law enforcement officer for a federal,
 26 state, or local governmental agency.

27 (b) The applicant shall substantiate the experience claimed under Subsection (1) as
 28 qualifying experience and shall provide:

29 (i) the exact details as to the character and nature of the experience on a form prescribed
 30 by the department; and

31 (ii) certification by the applicant's employers, which is subject to independent verification

1 by the board.

2 (c) If an applicant is unable to supply written certification of experience from an employer
3 in whole or in part, an applicant may offer written certification from persons other than an
4 employer covering the same subject matter for consideration by the board.

5 (d) The burden of proving completion of the required experience is on the applicant.

6 (2) An applicant for license renewal shall have completed not less than eight hours of
7 continuing classroom instruction.

8 Section 10. Section **53-10-110** is enacted to read:

9 **53-10-110. Bail enforcement agent as agency -- Bond -- Workers' compensation.**

10 (1) An applicant for licensure as a bail enforcement agent who will operate a bail bond
11 recovery agency shall provide the following information as part of the application:

12 (a) the full name and business address of the applicant;

13 (b) two passport-size color photographs of the applicant;

14 (c) the name under which the applicant intends to conduct the business;

15 (d) a statement that the applicant intends to engage in the bail bond recovery business;

16 (e) a notarized statement of the applicant's qualifications as required by Sections
17 53-10-108 and 53-10-109;

18 (f) the fee required by Section 53-10-115;

19 h [(g) liability insurance for not less than \$50,000;

20 — (h) (g) h a certificate of workers' compensation insurance, if applicable; and

21 h [(f)] (h) h proof of completion of a training program approved by the board.

22 h [(2) (a) The liability insurance shall be executed and acknowledged by the applicant as
23 policyholder and by a corporation licensed to transact liability insurance policies in this state as
24 a surety;

25 — (b) The liability insurance policy shall be continuous in form and shall run concurrently
26 with the applicant's license period;

27 — (c) The liability insurance policy shall be in favor of the state for the benefit of any person
28 injured by acts of a bail enforcement agent, his agency, or his employees and is subject to claims
29 by any person injured by those acts;

30 — (3) (a) The commissioner shall cancel the bail bond license of any bail bond recovery
31 agency upon the cancellation of the liability insurance required by this section.] h

1 ~~h [(b) The holder of the bail enforcement agent license may reinstate the license upon filing~~
2 ~~with the commissioner:~~

3 ~~—— (i) liability insurance that is concurrent with the remainder of the applicant's license~~
4 ~~period; and~~

5 ~~—— (ii) payment of the reinstatement fee required under Section 53-10-115.] h~~

6 ~~h [(4) (2) h~~ The license for a bail enforcement agent shall indicate on its face if the holder is
7 licensed to act as a bail bond recovery agency.

8 Section 11. Section **53-10-111** is enacted to read:

9 **53-10-111. Licensure -- Bail recovery agent -- Requirements and limitations.**

10 (1) (a) In addition to the requirements in Sections 53-10-108 and 53-10-113, an applicant
11 for licensure as a bail recovery agent shall meet all of the requirements under Section 53-10-109,
12 but instead of the experience requirement under Subsection 53-10-109(1)(a), a bail recovery agent
13 applicant shall have a minimum of 1,000 hours of experience consisting of either actual bail
14 recovery work, or work as a law enforcement officer for a federal, state, or local governmental
15 agency.

16 (b) The applicant shall substantiate the experience claimed under Subsection (1) as
17 qualifying experience and shall provide:

18 (i) the exact details as to the character and nature of the experience on a form prescribed
19 by the department; and

20 (ii) certification by the applicant's employers, which is subject to independent verification
21 by the board.

22 (c) If an applicant is unable to supply written certification of experience from an employer
23 in whole or in part, an applicant may offer written certification from persons other than an
24 employer covering the same subject matter for consideration by the board.

25 (d) The burden of proving completion of the required experience is on the applicant.

26 (2) An applicant for license renewal shall have completed not less than eight hours of
27 continuing classroom instruction.

28 (3) A bail recovery agent may work as a licensee under this chapter only as an employee
29 of or as an independent contractor with a bail bond agency. A bail recovery agent may not:

30 (a) advertise his services;

31 (b) provide services as a licensee under this chapter directly for members of the public;

1 or

2 (c) employ or hire as independent contractors bail enforcement agents, bail recovery
3 agents, or bail recovery apprentices.

4 Section 12. Section **53-10-112** is enacted to read:

5 **53-10-112. Licensure -- Bail recovery apprentices -- Requirements and limitations.**

6 (1) In addition to the requirements in Sections 53-10-108 and 53-10-113, an applicant for
7 licensure as a bail recovery apprentice shall meet all of the requirements under Section 53-10-109,
8 except the applicant is not subject to the experience requirement under Subsection
9 53-10-109(1)(a).

10 (2) A bail recovery apprentice may work as a licensee only:

11 (a) as an employee or contract employee of a bail bond agency; and

12 (b) under the direct supervision of a bail enforcement agent or bail recovery agent
13 employed also by the bail enforcement agent, unless the bail recovery apprentice is conducting
14 activities at the direction of the employing bail enforcement agent that under this chapter do not
15 require direct supervision.

16 (3) A bail recovery apprentice may not:

17 (a) advertise his services;

18 (b) provide services as a licensee under this chapter directly for members of the public;

19 or

20 (c) employ or hire as independent contractors bail enforcement agents, bail recovery
21 agents, or bail recovery apprentices.

22 Section 13. Section **53-10-113** is enacted to read:

23 **53-10-113. Bail recovery agent and bail recovery apprentice licensure -- Liability**
24 **insurance -- Fee -- Workers' compensation.**

25 (1) An applicant for licensure as a bail recovery agent or as a bail recovery apprentice shall
26 provide as part of the application:

27 (a) the full name and address of the applicant;

28 (b) two passport-size color photographs of the applicant;

29 (c) the name of the bail bond recovery agency for which the applicant will be an employee
30 or with which the applicant will be an independent contractor;

31 (d) written indication by a bail bond recovery agency or its designee that it intends to

1 employ or contract with the applicant; and

2 (e) a notarized statement of the applicant's experience and qualifications required under
3 Section 53-10-111 or 53-10-112, as appropriate.

4 (2) The licensure application or renewal shall be accompanied by h [;

5 ~~—(a)]~~ h the fee required under Section 53-10-115 h [~~;~~and] . h

6 h [(b) a liability insurance policy for not less than \$50,000.] h

7 (3) (a) A license or a license renewal for a bail recovery agent or a bail recovery apprentice
8 may not be granted to an applicant unless the employing bail bond recovery agency has on file
9 with the department evidence of current workers' compensation coverage.

10 (b) A bail recovery agent or bail recovery apprentice license may not be reinstated without
11 providing verification of the reinstatement of the workers' compensation coverage and payment
12 of the reinstatement fee required in Section 53-10-115.

13 (c) The provisions of this Subsection (3) do not apply to a bail recovery agent or bail
14 recovery apprentice who is working for a bail bond recovery agency as an independent contractor.

15 Section 14. Section **53-10-114** is enacted to read:

16 **53-10-114. Licensure - Qualification credit for specified training.**

17 (1) An applicant under this chapter may be exempt from meeting all or a portion of the
18 experience or training requirements for licensure if the applicant:

19 (a) holds a criminal justice bachelor's degree from an accredited college or university;

20 (b) is certified to have successfully completed the state Peace Officers Standards and
21 Training basic training course provided under Section 53-6-202; or

22 (c) provides adequate proof of having successfully completed a training course which the
23 board finds is essentially similar to the training course under Subsection (1)(b).

24 (2) The board determines to what extent training listed under this section may meet the
25 experience or training requirements for licensure under this chapter.

26 Section 15. Section **53-10-115** is enacted to read:

27 **53-10-115. License fees -- Deposit in General Fund.**

28 (1) Fees for licensure, registration, and renewal are:

29 (a) for an original bail enforcement agent license application and license, h [~~\$200~~ **\$250** h ,
29a which shall

30 include the costs of fingerprint processing and background investigation;

31 (b) for the renewal of a bail enforcement agent or bail bond recovery agency license, h [~~\$100~~

31a **\$150** h ;

1 (c) for an original bail recovery agent application license application and license, ~~h~~ [\$100]
1a \$150 ~~h~~ .

2 which shall include the costs of fingerprint processing and background investigation;

3 (d) for the renewal of each bail recovery agent license, ~~h~~ [\$50] \$100 ~~h~~ ;

4 (e) for an original bail recovery apprentice license application and license, ~~h~~ [\$100] \$150 ~~h~~ .
4a which

5 shall include the costs of fingerprint processing and background investigation;

6 (f) for the renewal of each bail recovery apprentice license, ~~h~~ [\$50] \$100 ~~h~~ ;

7 (g) for filing a renewal application under Subsection (1)(b) more than 30 days after the
8 expiration date of the license, a delinquency fee of \$50;

9 (h) for filing a renewal application under Subsection (1)(d) more than 30 days after the
10 expiration date of the registration, a delinquency fee of \$30;

11 (i) for filing a renewal application under Subsection (1)(f) more than 30 days after the
12 expiration date of the apprentice license, a delinquency fee of \$30;

13 (j) for the reinstatement of a bail enforcement agent or bail bond recovery agency license,
14 \$50;

15 (k) for a duplicate identification card, \$10; and

16 (l) for reinstatement of an identification card, \$10.

17 (2) (a) The board may renew a license granted under this chapter upon receipt of an
18 application on forms as prescribed by the board and upon receipt of the fees prescribed in
19 Subsection (1).

20 (b) The renewal of a bail enforcement agent, bail recovery agent, or bail recovery
21 apprentice license requires the filing of a liability insurance policy as described in Subsections
22 53-9-109(2) and (3).

23 (c) A license may not be renewed more than 90 days after its expiration.

24 (d) A licensee may not engage in any activity subject to this chapter during any period
25 between the date of expiration of the license and the renewal of the license.

26 (3) (a) The board may reinstate a suspended license upon completion of the term of
27 suspension.

28 (b) Renewal of the license does not entitle the licensee, while the license remains
29 suspended and until it is reinstated, to engage in any activity regulated by this chapter, or in any
30 other activity or conduct in violation of the order or judgment by which the license was suspended.

31 (4) The board may not reinstate a revoked license or accept an application for a license

1 from a person whose license has been revoked for at least one year after the date of revocation.

2 (5) All fees collected by the department under this section shall be deposited in the General
3 Fund.

4 Section 16. Section **53-10-116** is enacted to read:

5 **53-10-116. Issuance of license and identification card to applicant -- License period**
6 **-- Expiration of application -- Transfer of license prohibited.**

7 (1) (a) The board shall issue a license to an applicant who complies with the provisions
8 of this chapter.

9 (b) Each license shall:

10 (i) contain the name and address of the licensee, the classification of license, and the
11 number of the license; and

12 (ii) be issued for a period of two years.

13 (2) (a) When the board issues the license, it shall also issue an identification card of
14 dimensions 2-1/2 x 4-1/2 inches .

15 (b) The identification card shall be issued without charge to the licensee if an individual,
16 or if the licensee is an agency, to each of its licensed employees and contract employees, and is
17 evidence the licensee and his employees and contract employees are licensed under this chapter.

18 (c) The identification card shall state on its face:

19 (i) the licensee's classification of licensure;

20 (ii) the license number; and

21 (iii) a current photo of the licensee.

22 (3) (a) If an identification card issued to a person states on it any bail bond agencies for
23 which the cardholder works, that person shall return the card to the employer upon termination of
24 his work relationship with the bail bond agency licensee.

25 (b) Within five days the licensee shall mail or deliver the card to the commissioner for
26 cancellation.

27 (4) (a) When the commissioner notifies an applicant that licensure as a bail bond recovery
28 agency is ready for issuance, the applicant shall complete the application process within 90 days.

29 (b) Failure to complete the process results in cancellation of the application and forfeiture
30 of all fees paid to that point.

31 (c) Subsequent application by the same applicant requires the payment of all application

1 and license fees prescribed in Section 53-10-115.

2 (5) A bail bond agency licensee shall notify the commissioner of any change in the name
3 or address of his business and of any change of employees or contract employees within 30 days
4 after the change.

5 (6) (a) All new employees and contract employees of an agency **h WHO ARE LICENSED**
5a **UNDER THIS CHAPTER h** shall submit applications
6 on forms prescribed by the board.

7 (b) Upon board approval, identification cards shall be issued without charge.

8 Section 17. Section **53-10-117** is enacted to read:

9 **53-10-117. Workers' compensation requirements for employees' licensure.**

10 (1) An applicant for licensure under this section who is employed by a bail bond recovery
11 agency may not obtain or renew a license unless the employer has on file with the department
12 evidence of current workers' compensation coverage.

13 (2) The applicant's license may only be reinstated upon verification by the department of
14 the reinstatement of the workers' compensation coverage and payment of the reinstatement fee
15 required under Section 53-10-115.

16 (3) This section does not apply to contract employees.

17 Section 18. Section **53-10-118** is enacted to read:

18 **53-10-118. Grounds for denial of license -- Appeal.**

19 (1) The board may deny a license application or a license renewal if the applicant has:

20 (a) committed an act that, if committed by a licensee, would be grounds for probation,
21 suspension, or revocation of a license under this chapter;

22 (b) employed as a bail recovery agent or bail recovery apprentice employee or contract
23 employee a person who has been refused a license under this chapter or who has had a license
24 revoked in any state;

25 (c) committed, or aided and abetted the commission of, any act for which a license is
26 required by this chapter, while not licensed under this chapter; or

27 (d) knowingly made a material misstatement in connection with an application for a
28 license or renewal of a license under this chapter.

29 (2) The issuance of an identification card shall be denied to an applicant if the applicant
30 fails to meet the required licensure qualifications.

31 (3) (a) The denial of the issuance of a license under this chapter shall be in writing and

1 describe the basis for the denial.

2 (b) The board's denial shall inform the applicant in writing that if the applicant desires a
3 hearing to contest the denial, he shall submit a request in writing to the commissioner within 30
4 days after the issuance of the denial.

5 (c) The hearing shall be scheduled not later than 60 days after receipt of the request.

6 (4) The commissioner shall hear the appeal, and may:

7 (a) return the case to the board for reconsideration;

8 (b) modify the board's decision; or

9 (c) reverse the board's decision.

10 (5) Decisions of the commissioner are subject to judicial review pursuant to Section
11 63-46b-15.

12 Section 19. Section **53-10-119** is enacted to read:

13 **53-10-119. Grounds for disciplinary action.**

14 (1) The board may take disciplinary action under Subsection (2), (4), or (5) regarding a
15 license granted under this chapter if the board finds the licensee commits any of the following
16 while engaged in activities regulated under this chapter:

17 (a) fraud or willful misrepresentation in applying for an original license renewal of an
18 existing license;

19 (b) using any letterhead, advertising, or other printed matter in any manner representing
20 that he is an instrumentality of the federal government, a state, or any political subdivision of a
21 state;

22 (c) using a name different from that under which he is currently licensed for any
23 advertising, solicitation, or contract to secure business unless the name is an authorized fictitious
24 name;

25 (d) impersonating, permitting, or aiding and abetting an employee to impersonate a law
26 enforcement officer or employee of the United States, any state, or a political subdivision of a
27 state;

28 (e) knowingly violating, advising, encouraging, or assisting in the violation of any statute,
29 court order, or injunction in the course of conducting an agency regulated under this chapter;

30 (f) falsifying fingerprints or photographs while operating under this chapter;

31 (g) has a conviction for:

- 1 (i) a felony;
- 2 (ii) any act involving illegally using, carrying, or possessing a dangerous weapon;
- 3 (iii) any act involving moral turpitude;
- 4 (iv) any act of personal violence or force against any person or conviction of threatening
5 to commit any act of personal violence or force against any person;
- 6 (v) any act constituting dishonesty or fraud;
- 7 (vi) impersonating a peace officer; or
- 8 (vii) any act of illegally obtaining or disseminating private, controlled, or protected records
9 under Section 63-2-801;
- 10 (h) soliciting business for an attorney in return for compensation;
- 11 (i) being placed on probation, parole, community service, or named in an outstanding
12 arrest warrant;
- 13 (j) committing, or permitting any employee or contract employee to commit any act during
14 the period between the expiration of a license for failure to renew within the time fixed by this
15 chapter, and the reinstatement of the license, that would be cause for the suspension or revocation
16 of the license or grounds for denial of the application for the license;
- 17 (k) willfully neglecting to render to a client services or a report as agreed between the
18 parties and for which compensation has been paid or tendered in accordance with the agreement
19 of the parties, but if the investigator chooses to withdraw from the case and returns the funds for
20 work not yet done, no violation of this section exists;
- 21 (l) failing or refusing to cooperate with, failing to provide truthful information to, or
22 refusing access to an authorized representative of the department engaged in an official
23 investigation;
- 24 (m) employing or contracting with any unlicensed or improperly licensed person or agency
25 to conduct activities regulated under this chapter if the licensure status was known or could have
26 been ascertained by reasonable inquiry;
- 27 (n) permitting, authorizing, aiding, or in any way assisting a licensed employee to conduct
28 services as described in this chapter on an independent contractor basis and not under the authority
29 of the licensed agency;
- 30 (o) failure to maintain in full force and effect workers' compensation insurance, if
31 applicable;

1 (p) advertising in a false, deceptive, or misleading manner;

2 (q) refusing to display the identification card issued by the department to any person
3 having reasonable cause to verify the validity of the license;

4 (r) committing any act of unprofessional conduct; or

5 (s) engaging in any other conduct prohibited by this chapter.

6 (2) On completion of an investigation, the board may:

7 (a) dismiss the case;

8 (b) take emergency action;

9 (c) issue a letter of concern, if applicable;

10 (d) impose a civil penalty not to exceed \$500;

11 (e) place all records, evidence findings, and conclusions and any other information
12 pertinent to the investigation in the confidential and protected records section of the file
13 maintained at the department; or

14 (f) if the board finds, based on the investigation, that a violation of Subsection (1) has
15 occurred, notice shall be sent to the licensee of the results of the hearing by mailing a true copy
16 to the licensee's last-known address in the department's files by certified mail, return receipt
17 requested.

18 (3) A letter of concern shall be retained by the commissioner and may be used in future
19 disciplinary actions against a licensee.

20 (4) (a) If the board finds, based on its investigation under Subsection (1), that the public
21 health, safety, or welfare requires emergency action, the board may order a summary suspension
22 of a license pending proceedings for revocation or other action.

23 (b) If the board issues an order of summary suspension, the board shall issue to the
24 licensee a written notice of complaint and formal hearing, setting forth the charges made against
25 the licensee and his right to a formal hearing before the board within 60 days.

26 (5) Based on information the board receives during a hearing it may:

27 (a) (i) dismiss the complaint if the board believes it is without merit;

28 (ii) fix a period and terms of probation best adapted to educate the licensee;

29 (iii) place the license on suspension for a period of not more than 12 months; or

30 (iv) revoke the license; and

31 (b) impose a civil penalty not to exceed \$500.

1 (6) (a) On a finding by the board that a bail recovery agency licensee committed a
2 violation of Subsection (1), the probation, suspension, or revocation terminates the employment
3 of all licensees employed or employed by contract by the bail bond agency.

4 (b) If a licensee who is an employee or contract employee of a bail bond agency
5 committed a violation of Subsection (1), the probation, suspension, or revocation applies only to
6 the license held by that individual under this chapter.

7 (7) (a) Appeal of the board's decision shall be made in writing to the commissioner within
8 30 days after the date of issuance of the board's decision.

9 (b) The hearing shall be scheduled not later than 60 days after receipt of the request.

10 (c) The commissioner shall review the finding by the board and may affirm, return to the
11 board for reconsideration, reverse, adopt, modify, supplement, amend, or reject the
12 recommendation of the board.

13 (8) A person may appeal the commissioner's decision to the district court pursuant to
14 Section 63-46b-15.

15 (9) All penalties collected under this section shall be deposited in the General Fund.

16 Section 20. Section **53-10-120** is enacted to read:

17 **53-10-120. Requirement to identify employing agency.**

18 Upon request, a licensee shall immediately identify the name, business address, and
19 telephone number of the bail bond agency for which the licensee is an employee or an independent
20 contractor.

21 Section 21. Section **53-10-121** is enacted to read:

22 **53-10-121. False representation as a licensee.**

23 A licensee under this chapter may not wear a uniform, use a title, insignia, badge, or
24 identification card other than the one issued under this chapter, or make any statement that would
25 lead a reasonable person to believe the licensee is connected in any way with the federal
26 government or any state or local governmental entity, unless the licensee has received
27 authorization in writing by one of those governmental authorities to do so.

28 Section 22. Section **53-10-122** is enacted to read:

29 **53-10-122. Requirements during search and seizure -- Notification of law**
30 **enforcement agency.**

31 A bail enforcement agent, bail recovery agent, or bail recovery apprentice shall observe the

1 following requirements before taking action authorized under this chapter:

2 (1) identify himself as a "bail enforcement agent," "bail recovery agent," or "bail recovery
3 apprentice"; and

4 (2) comply with the notification requirements of Section 53-10-123.

5 Section 23. Section **53-10-123** is enacted to read:

6 **53-10-123. Notification of local law enforcement.**

7 (1) (a) A bail enforcement agent or bail recovery agent who is searching for or planning
8 to apprehend a person shall notify the local law enforcement agency if the search or apprehension
9 will be conducted in an occupied structure within that law enforcement agency's jurisdiction.

10 (b) Notification shall be provided not less than 24 hours before action is taken.

11 (c) When a bail enforcement agent or bail recovery agent is preparing to enter an occupied
12 structure to carry out an arrest, he shall verbally advise the local law enforcement agency of his
13 location and intended action prior to acting.

14 (2) A bail enforcement agent, bail recovery agent, and bail recovery apprentice shall each
15 carry with him a written document providing proof and cause for the actions he is taking as a
16 licensee, and shall make the document available to local law enforcement agencies upon request.

17 Section 24. Section **53-10-124** is enacted to read:

18 **53-10-124. Penalties.**

19 Any violation of this chapter is a class A misdemeanor, unless the circumstances of the
20 violation amount to an offense subject to a greater criminal penalty under Title 76, Utah Criminal
21 Code.

21a **h** Section 25. Section 77-20-8.5 is amended to read:

21b **77-20-8.5. Sureties -- Surrender of defendant -- Arrest of defendant.**

21c **(1) (a) The sureties may at any time prior to a forfeiture of their bail surrender the defendant**
21d **and obtain exoneration of their bail by filing written requests at the time of the surrender.**

21e **(b) To effect surrender, certified duplicate copies of the undertaking shall be delivered to a**
21f **peace officer, who shall detain the defendant in his custody as upon a commitment, and shall in**
21g **writing acknowledge the surrender upon one copy of the undertaking. This certified copy of the**
21h **undertaking upon which the acknowledgment of surrender is endorsed shall be filed with the court.**
The

21i **court may then, upon proper application, order the undertaking exonerated and may order a**
21j **refund of any paid premium, or part of a premium, as it finds just.**

21k **(2) For the purpose of surrendering the defendant, the sureties may arrest him at any time**
21l **before they are finally exonerated and at any place within the state.**

21m **(3) A SURETY ACTING UNDER THIS SECTION IS SUBJECT TO THE PROVISIONS OF**
21n **TITLE 53, CHAPTER 10, BAIL BOND RECOVERY. h**

Legislative Review Note
as of 1-23-98 3:34 PM

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel