

**Representative Kerry W. Gibson** proposes the following substitute bill:

**BAIL BOND AMENDMENTS**

2005 GENERAL SESSION

STATE OF UTAH

**Sponsor: Kerry W. Gibson**

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**LONG TITLE**

**General Description:**

This bill enacts the Joint Bail Bond Commission Act and describes its duties. This bill allocates a portion of licensing fee to fund the commission.

**Highlighted Provisions:**

This bill:

- ▶ enacts the Joint Bail Bond Commission Act which creates the commission within the Department of Insurance and sets out the duties of the commission and the department;

- ▶ requires the commission to report to the Legislature before November 30, 2005; and

- ▶ provides a repeal date for commission funding.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**31A-35-401**, as last amended by Chapter 298, Laws of Utah 2003

**63-55b-131**, as last amended by Chapters 2 and 37, Laws of Utah 2004

ENACTS:





57 (e) one member of the general public appointed by the department;

58 (f) the commissioner of public safety or his designee;

59 (g) the Utah attorney general or his designee; and

60 (h) the insurance commissioner or his designee.

61 (2) (a) Except as required by Subsection (2)(b), commission members serve four-year  
62 terms.

63 (b) Notwithstanding the requirements of Subsection (2)(a), the members appointed to  
64 the commission from the following serve an initial term of two years in order to stagger the  
65 terms of membership:

66 (i) one member from the Utah Association of Professional Bondsmen and Agents;

67 (ii) the member from the Utah Sheriff's Association;

68 (iii) the member from the Statewide Association of Public Attorneys; and

69 (iv) the member from the general public.

70 (c) A commission member may be reappointed to more than one term.

71 (d) When a vacancy occurs in the membership for any reason, a replacement shall be  
72 appointed for the unexpired term.

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

77 (b) A member may decline to receive per diem and expenses for the member's service.

78 (4) Members of the commission shall annually select one member to serve as chair.

79 (5) The department shall provide staff services to the commission.

80 (6) (a) The commission shall meet at least quarterly.

81 (b) The chair may call additional meetings:

82 (i) at the chair's discretion; or

83 (ii) upon the written request of three or more commission members.

84 (7) (a) Five members of the commission constitute a quorum for the transaction of  
85 business.

86 (b) The action of a majority of the members when a quorum is present is the action of  
87 the commission.

88 Section 4. Section 31A-2-404 is enacted to read:

89 **31A-2-404. Duties of the Joint Bail Bond Commission.**

90 The commission shall:

91 (1) review current rules and statutes relating to bail and the business of bail bonds;

92 (2) research and study other issues relating to bail and the business of bail bonds;

93 (3) recommend changes relating to bail and the business of bail bonds to the

94 appropriate agency or to the Legislature;

95 (4) coordinate the efforts of the organizations represented in resolving issues affecting

96 bail bond services;

97 (5) recommend to the Legislature on or before November 30, 2005, the appropriate

98 allocation of a fee to be collected at the jail at the time the bail bond is given to the jail for:

99 (a) the department to:

100 (i) investigate and resolve bail bond complaints;

101 (ii) pay the administrative costs of the commission; and

102 (iii) employ investigators;

103 (b) the Department of Public Safety to:

104 (i) investigate and resolve bail bond enforcement agent complaints;

105 (ii) investigate violations of the state law pertaining to bail enforcement agent

106 licensees; and

107 (iii) employ investigators to conduct investigations required under this Section (5)(b);

108 (c) the jails to:

109 (i) provide bail services in the jail; and

110 (ii) pay the costs of collecting and processing the fee;

111 (6) perform other duties as provided in this title.

112 Section 5. Section 31A-2-405 is enacted to read:

113 **31A-2-405. Commission funding.**

114 The department is authorized to pay administrative expenses of the commission from

115 the bail bond surety administration account under Section 31A-35-407.

116 Section 6. Section 31A-35-401 is amended to read:

117 **31A-35-401. Requirement for license or certificate of authority -- Process -- Fees**

118 **-- Limitations.**

119 (1) (a) A person may not engage in the bail bond surety insurance business unless that  
120 person:

121 (i) is a bail bond surety company licensed under this chapter;

122 (ii) is a surety insurer that is granted a certificate under this section in the same manner  
123 as other insurers doing business in this state are granted certificates of authority under this title;  
124 or

125 (iii) is a bail bond producer licensed in accordance with this section.

126 (b) A bail bond surety company shall be licensed under this chapter as an agency.

127 (c) A bail bond producer shall be licensed under Chapter 23a, Insurance Marketing -  
128 Licensing Producers, Consultants, and Reinsurance Intermediaries, as a limited lines producer.

129 (2) A person applying for a bail bond surety company license under this chapter shall  
130 submit to the commissioner:

131 (a) a completed application form as prescribed by the commissioner;

132 (b) a fee as determined by the commissioner in accordance with Section 63-38-3.2,  
133 which may take into account administrative expenses of the Joint Bail Bond Commission Act  
134 created under Title 31A, Chapter 2, Part 4, Joint Bail Bond Commission Act; and

135 (c) any additional information required by rule.

136 (3) Fees required under this section are not refundable.

137 (4) Fees collected from a bail bond surety company shall be deposited in a restricted  
138 account created in Section 31A-35-407.

139 (5) (a) A bail bond surety company shall be domiciled in Utah.

140 (b) A bail bond producer shall be a resident of Utah.

141 (c) A foreign surety insurer that is granted a certificate to issue bail bonds may only  
142 issue bail bonds through a bail bond surety company licensed under this chapter.

143 Section 7. Section **63-55b-131** is amended to read:

144 **63-55b-131. Repeal dates, Title 31A.**

145 (1) Section 31A-2-405 is repealed July 1, 2006.

146 [(+)] (2) Section 31A-23a-415 is repealed July 1, 2006.

147 [(2)] (3) Title 31A, Chapter 38, Federal Health Care Tax Credit Program Act, is  
148 repealed July 1, 2005.