

1 A bill to be entitled

2 An act relating to bail bond agencies and agents;
3 amending s. 648.25, F.S.; revising and providing
4 definitions; amending s. 648.27, F.S.; providing for
5 the expiration of a temporary bail bond agent's
6 license; limiting eligibility for reissuance of a
7 temporary bail bond agent's license after expiration,
8 suspension, revocation, or termination of the license;
9 revising requirements relating to licensure and
10 appointment of a managing general agent; Revising the
11 requirements related to the ownership of a bail bond
12 agency; amending s. 648.285, F.S.; requiring the
13 appointment of a bail bond agent in charge under
14 certain circumstances; amending s. 648.29, F.S.;
15 providing requirements relating to the posting of
16 build-up funds by a bail bond agent or agency;
17 amending s. 648.295, F.S.; providing requirements
18 relating to reporting, accounting for, and paying
19 certain funds to specified persons; providing
20 conditions and requirements relating to the payment of
21 bail bond premiums; providing criminal and
22 administrative penalties for failing to comply with
23 requirements relating to the collection of premiums;
24 Authorizing the department to adopt rules; amending s.

25 648.30, F.S.; providing licensure requirements
26 relating to the apprehension, detention, or arrest of
27 principals on bond; prohibiting a bail bond agent from
28 aiding or abetting an unlicensed person to engage in
29 certain actions relating to apprehending, detaining,
30 or arresting a defendant; providing criminal
31 penalties; amending 648.34, F.S.; requiring licensed
32 bail bond agents to submit fingerprints to the
33 department upon request; deleting the requirement for
34 the applicant to provide a photograph with the
35 application for licensure; authorizing the department
36 to adopt rules; amending s. 648.355, F.S.; revising
37 requirements relating to applicants and applications
38 for certain temporary licenses; specifying
39 requirements relating to the supervision and
40 appointment of certain temporary licensees; requiring
41 that temporary bail bond agents and supervising bail
42 bond agents certify monthly information relating to
43 the names and hours worked by temporary bail bond
44 agents; requiring the payment of wages to temporary
45 bail bond agents and the reporting of such wages under
46 ch. 443, F.S., specifies the procedure for submitting
47 an applicant's fingerprints to the department;
48 relating to unemployment compensation; prohibiting a

49 temporary bail bond agent whose license has expired
50 from engaging in certain activities without having
51 passed a written examination for specified types of
52 licenses; providing a condition under which a
53 temporary license may not be issued; providing
54 criminal penalties; authorizing a temporary licensee
55 to accept outstanding premium payments under certain
56 circumstances; amending s. 648.382, F.S.; providing
57 requirements relating to the payment of outstanding
58 premiums or losses or the fulfillment of contractual
59 obligations; clarifying the time within which such
60 notice must be submitted; amending s. 648.385, F.S.;
61 revising requirements for continuing education;
62 authorizing online courses; amending s. 648.387, F.S.;
63 requiring bail bond agencies to designate a bail bond
64 agent in charge at each location; providing duties and
65 requirements of a designated bail bond agent in
66 charge; authorizing a bail bond agency or the bail
67 bond agent in charge to require employees and
68 applicants for employment to submit to annual
69 background and criminal history checks; requiring the
70 department to adopt rules; amending s. 648.388, F.S.;
71 revising provisions relating to the appointment,
72 duties, and responsibilities of a managing general

73 agent; authorizing certain records to be maintained
74 electronically; providing procedures and requirements
75 for the submission of affidavits, notices, and
76 documents by proposed appointees and insurers relating
77 to the satisfaction of outstanding premiums, losses,
78 or other contractual obligations; requiring proposed
79 appointees and appointing insurers to provide any
80 information reasonably requested by the department;
81 requiring certain certifications to the department by
82 an insurer; requiring an appointing insurer to advise
83 the department under certain circumstances about
84 certain criminal legal actions involving a managing
85 general agent appointee; amending s. 648.39, F.S.;
86 specifying that a bail bond agent or managing general
87 agent whose appointment has been terminated by an
88 insurer remains accountable for liabilities relating
89 to bonds written by such agent; creating s. 648.415,
90 F.S.; requiring the department to adopt rules relating
91 to provisions of ch. 648, F.S., regulating certain
92 appointments and termination of appointments; amending
93 s. 648.42, F.S.; providing requirements for the
94 registration of bail bond agents with the office of
95 the sheriff and the clerk of the circuit court;
96 amending s. 648.421, F.S.; providing requirements for

97 notice of change of address, telephone number, or e-
98 mail address; authorizing electronic submission of
99 specified changes through the department's website;
100 amending s. 648.43, F.S.; requiring insurers to obtain
101 approval of forms of power of attorney from the
102 office; requiring certain information to be legibly
103 printed on the original and copies of a transfer bond;
104 amending s. 648.44, F.S.; revising provisions
105 prohibiting bail bond agents and temporary bail bond
106 agents from engaging in certain conduct relating to
107 legal representation, solicitation of business,
108 advertising, collection of debt, dealing generally
109 with bail bond matters, paying fees or rebates to
110 inmates, acting as professional bail bond agents
111 without being licensed, and charging travel fees for
112 certain bail bond undertakings and postings; requiring
113 the return of premiums on bonds that are not executed;
114 requiring advertising to include the license number of
115 the bail bond agent; providing penalties; authorizing
116 the department to adopt rules; amending s. 648.442,
117 F.S.; revising requirements for the acceptance of cash
118 collateral and for the return of collateral security
119 under certain circumstances; amending s. 648.45, F.S.;
120 providing additional circumstances under which the

121 department may deny, suspend, revoke, or refuse to
122 renew any license or appointment; providing penalties;
123 revising the procedure for the suspension of license;
124 revising the procedure for a suspended license to be
125 reinstated; amending s. 648.55, F.S.; specifying
126 responsibilities of an bail bond agent in charge
127 relating to the identity and appointment of bail bond
128 agents; amending s. 648.571, F.S.; prohibiting a bail
129 bond agent from imposing certain restrictions on the
130 return of collateral; providing an effective date.

131

132 Be It Enacted by the Legislature of the State of Florida:

133

134 Section 1. Section 648.25, Florida Statutes, is amended to
135 read:

136 648.25 Definitions.—As used in this chapter, the term:

137 (4) "Bail Bond Agent in charge" means a licensed and
138 appointed bail bond agent who is responsible for the overall
139 operation and management of a bail bond agency location and
140 whose responsibilities include hiring and supervising all
141 individuals within that location. A bail bond agent may be
142 designated as agent in charge for only one bail bond agency at a
143 single agency location.

144 (4) "Electronic media" means any audio, video, Internet,

145 or government-funded media.

146 (5)~~(3)~~ "Managing general agent" means any individual,
147 partnership, association, or corporation appointed or employed
148 by an insurer to supervise or manage the bail bond business
149 written in this state by limited surety agents appointed by the
150 insurer.

151 (6)~~(4)~~ "Insurer" means any domestic, foreign, or alien
152 surety company which has been authorized to transact surety
153 business in this state.

154 (7)~~(5)~~ "Limited surety agent" means any individual
155 appointed by an insurer by power of attorney to execute or
156 countersign bail bonds in connection with judicial proceedings
157 who receives or is promised money or other things of value
158 therefor. Such appointment must be filed with, and all
159 applicable fees paid to, the department in accordance with this
160 chapter.

161 ~~-(6) "Primary bail bond agent" means a licensed bail bond~~
162 ~~agent who is responsible for the overall operation and~~
163 ~~management of a bail bond agency location and whose~~
164 ~~responsibilities include hiring and supervising all individuals~~
165 ~~within that location. A bail bond agent may be designated as~~
166 ~~primary bail bond agent for only one bail bond agency location.~~

167 (8)~~(7)~~ "Professional bail bond agent" means any person
168 licensed and appointed in accordance with this chapter who

169 pledges United States currency, United States postal money
170 orders, or cashier's checks as security for a bail bond in
171 connection with a judicial proceeding and receives or is
172 promised therefor money or other things of value.

173 (9) "State association" means a statewide association of
174 bail bond agents which is duly incorporated as a not-for-profit
175 corporation in this state and has:

176 (a) Been incorporated as a not-for-profit corporation in
177 this state for at least 10 years, as evidenced by a certificate
178 of status issued by the Department of State under s. 617.0128;

179 (b) Held at least two meetings in this state each year
180 during each of the previous 10 years;

181 (c) Kept minutes of the association's meetings; and

182 (d) Opened and maintained bank accounts in the
183 association's name.

184 (10) "Supervising bail bond agent" means a bail bond agent
185 licensed and appointed in accordance with this chapter who
186 appoints and supervises the work of a temporary bail bond agent
187 and is responsible for the temporary bail bond agent's conduct
188 in the bail bond business.

189 (11) "Surety" means any domestic, foreign, or alien surety
190 company that has been authorized to transact limited surety
191 business in this state and issued a certificate of authority
192 under s. 624.413.

193 (12)~~(8)~~ "Temporary bail bond agent" means a person employed
194 by a bail bond agent or agency, insurer, or managing general
195 agent, and such licensee has the same authority as a licensed
196 bail bond agent, including presenting defendants in court;
197 apprehending, arresting, and surrendering defendants to the
198 proper authorities, while accompanied by a supervising bail bond
199 agent or an agent from the same agency; and keeping defendants
200 under necessary surveillance. However, a temporary licensee may
201 not execute or sign bonds, handle collateral receipts, or
202 deliver bonds to appropriate authorities. A temporary licensee
203 may not operate an agency or branch agency separate from the
204 location of the supervising bail bond agent, managing general
205 agent, or insurer by whom the licensee is employed. This does
206 not affect the right of a bail bond agent or insurer to hire
207 counsel or to obtain the assistance of law enforcement officers.

208 Section 2. Subsection (3), paragraph (b) of subsection (5),
209 and subsections (8) and (9) of section 648.27, Florida Statutes,
210 are amended, and subsection (10) is added to that section, to
211 read:

212 648.27 Licenses and appointments; general.—

213 (3) The department may propound any reasonable
214 interrogatories to an applicant for a license or appointment
215 under this chapter or on any renewal thereof, relating to his or
216 her qualifications, residence, prospective place of business,

217 and any other matters that ~~which~~ are deemed necessary or
218 expedient in order to protect the public and ascertain the
219 qualifications of the applicant. The department may also conduct
220 any reasonable inquiry or investigation it sees fit, relative to
221 the determination of the applicant's fitness to be licensed or
222 appointed or to continue to be licensed or appointed. Upon the
223 request of the department, a law enforcement agency shall inform
224 the department of any specific criminal charge filed against any
225 applicant or licensee and the final disposition of such charge.

226 (5)

227 (b) The license of a temporary bail bond agent expires 18
228 months after being issued or when ~~shall continue in force until~~
229 suspended, revoked, or otherwise terminated, whichever occurs
230 earlier. An individual whose temporary bail bond agent license
231 expires or is suspended or otherwise terminated may not be
232 issued another temporary bail bond agent license within 2 years
233 after the date of expiration, suspension or termination of the
234 temporary license.

235 (8) An application for a managing general agent's license
236 must be made by an insurer who proposes to employ or appoint an
237 individual, partnership, association, or corporation as a
238 managing general agent. Such application shall contain the
239 information required by s. 626.744, and the applicant shall pay
240 the same fee as a managing general agent licensed pursuant to

241 that section. An individual who is a managing general agent must
242 also be licensed and appointed in accordance with this chapter
243 as a bail bond agent at all times during licensure as a managing
244 general agent. In the case of an entity, at least one owner,
245 officer, or director at each office location must be licensed
246 and appointed as a bail bond agent.

247 (9) If, upon application for an appointment and such
248 investigation as the department may make, it appears to the
249 department that an individual licensee has been actively engaged
250 or is currently actively engaged in bail bond activities without
251 being appointed as required, the department may, if it finds
252 that such failure to be appointed is an error on the part of the
253 insurer or employer so represented, issue or authorize the
254 issuance of the appointment as applied for, but subject to the
255 condition that, before the appointment is issued, all fees and
256 taxes which would have been due had the applicant been so
257 appointed during such current and prior periods, together with a
258 continuation fee for such current and prior terms of
259 appointment, shall be paid to the department. Failure to notify
260 the department within the required time period shall result in
261 the appointing entity being assessed a delinquent fee of \$250.
262 Delinquent fees shall be paid by the appointing entity and may
263 ~~shall~~ not be charged to the appointee.

264 Section 3. Subsections (1) and (2) of section 648.285,

265 Florida Statutes, are amended to read:

266 648.285 Bond agency; ownership requirements.—

267 (1) A person may not own, control, or otherwise have a
268 pecuniary interest in, or manage a bail bond agency unless the
269 person has been ~~such individual is~~ a licensed and appointed as a
270 bail bond agent in accordance with this chapter. Any bail bond
271 agency that is not in compliance with this subsection is ~~shall~~
272 ~~be~~ subject to the issuance of an immediate final order of
273 suspension of all operations until the agency achieves
274 compliance.

275 (2) If the owner of a bail bond agency dies or becomes
276 mentally incapacitated, a personal representative or legal
277 guardian may be issued a temporary permit to manage the affairs
278 of the bail bond agency. Such person must appoint or maintain
279 the appointment of a ~~primary~~ bail bond agent in charge, as
280 provided in s. 648.387, and may not engage in any activities as
281 a licensed bail bond agent but must comply with s. 648.387
282 during the administration of the estate or guardianship. A
283 temporary permit is valid for a maximum of 24 months.

284 Section 4. Subsections (1), (3), and (4) of section 648.29,
285 Florida Statutes, are amended, and subsection (6) is added to
286 that section, to read:

287 648.29 Build-up funds posted by bail bond agent.—

288 (1) All build-up funds pledged to indemnify an insurer

289 which are posted by a bail bond agent or agency with the insurer
290 must be held in an individual build-up trust account for the
291 agent or agency in an FDIC-approved or FSLIC-approved bank or
292 savings and loan association in this state, jointly in the name
293 of the agent or agency and the insurer or in trust for the agent
294 or agency by the insurer. Such account must remain open to
295 inspection and examination by the department and the office at
296 all times. An accounting of all such funds shall be maintained
297 which designates the amounts collected on each bond written.

298 (3) Build-up funds are maintained as a trust fund created
299 on behalf of a bail bond agent or agency, held by the insurer in
300 a fiduciary capacity to be used to indemnify the insurer for
301 losses and any other agreed-upon costs related to a bail bond
302 executed by the agent. The build-up funds are the sole property
303 of the agent or agency. Upon termination of the bail bond agency
304 or agent's contract and discharge of open bond liabilities on
305 the bonds written, with no pending litigation involving the
306 bonds, build-up funds are due and payable to the bail bond agent
307 or agency not later than 6 months after final discharge of the
308 open bond liabilities. A partial release of funds that exceed
309 the open liability may be released earlier.

310 (4) Each insurer authorized to write bail bonds in this
311 state and each managing general agent must furnish to the office
312 ~~department~~ a certified copy of a statement listing each build-up

313 trust account and the balance therein or a written attestation
314 that the company does not maintain build-up accounts by March 1
315 of each year.

316 Section 5. Section 648.295, Florida Statutes, is amended
317 to read:

318 648.295 Reporting and accounting of funds.—

319 (1) All premiums, return premiums, collateral, or other
320 funds belonging to insurers or others received by a person
321 licensed pursuant to this chapter in transactions under her or
322 his license are trust funds received by the licensee in a
323 fiduciary capacity, and the licensee must account for and pay
324 the same to the insurer, insured, managing general agent, or
325 other person entitled to such funds within 30 days after
326 receiving the funds.

327 (2) A bail bond agent may, at the time a bond is executed,
328 collect only a portion of the full premium rate that has been
329 filed with and approved by the office under s. 648.33(2) if the
330 agent strictly adheres to the following guidelines:

331 (a) The agent, the defendant, and any other person
332 responsible for paying the remaining balance of the premium must
333 complete and sign a form adopted by the department and furnished
334 by the surety company which, at a minimum, includes the
335 following:

336 1. The names, addresses, and telephone numbers of the

337 surety company, bond agency, defendant, and any other person
338 responsible for paying the remaining balance of the premium.

339 2. A prominent statement explaining that all premium
340 payments are owed in full to the surety company and are being
341 received as trust funds by the bail bond agency acting in a
342 fiduciary capacity with respect to the surety company. The
343 statement must also explain that the surety company may attempt
344 to collect any unpaid premium directly without regard to any
345 actions taken by the bond agent.

346 3. The date of the bond undertaking.

347 4. All numbers identifying the legal instruments executed
348 by the surety company to convey to the bail bond agent by power
349 of attorney the authority to post bond.

350 5. The total premium due on the bond and the amount of the
351 initial payment collected.

352 6. The number on the receipt acknowledging the initial
353 premium payment.

354 7. The exact terms applicable to payment in full of the
355 remaining outstanding premium balance.

356 (b) The surety, agent, defendant, and any other person
357 responsible for paying the remaining balance of the premium must
358 be furnished a copy of the form completed and signed in
359 accordance with paragraph (a).

360 (c) Payment in full of the premium due on the bond may not

361 be scheduled over a period exceeding 360 days after the date the
362 bond was executed. Additional fees, charges, or interest may not
363 be charged except for litigation fees. The bond agent shall:

364 1. Contact the defendant and any other person responsible
365 for paying the premium in person or by telephone if a scheduled
366 payment is not received within 3 days after the due date.

367 2. Provide a past-due notification by certified mail,
368 return receipt requested, to the defendant and any other person
369 responsible for paying the premium if a scheduled payment is not
370 received within 10 days after the due date.

371 3. Keep a detailed record in the defendant's file of all
372 attempts to provide any notification of a payment delinquency to
373 the defendant or any other person responsible for paying the
374 premium, including copies of and receipts pertaining to a
375 notification sent by registered mail as required under
376 subparagraph 2.

377 4. All documents related to this transaction shall be
378 maintained as records required in s. 648.36.

379 A bail bond agent who fails to comply with this subsection
380 commits a violation of this chapter. If a bond agent commits
381 multiple violations by the repeated failure to collect the full
382 premium rate filed with and approved by the office, the
383 department may deny, suspend, revoke, or refuse to renew the
384 bail bond agent's license or appointment. Multiple violations of

385 this section by the bond agent constitutes conduct that is
386 actionable under s. 648.27(2) or (3), s. 648.44(1), or s.
387 648.45(2) or (3).

388 (3)~~(2)~~ A licensee shall keep and make available to the
389 department books, accounts, and records as necessary to enable
390 the department to determine whether such licensee is complying
391 with this chapter. A licensee shall preserve the books,
392 accounts, and records pertaining to a premium payment for at
393 least 3 years after making such payment. Records that are
394 preserved by computer or photographic reproduction or records
395 that are in photographic form constitute compliance with this
396 requirement.

397 (4)~~(3)~~ Any licensee who unlawfully diverts or appropriates
398 such funds or any portion thereof to her or his own use commits
399 larceny by embezzlement, punishable as provided by law.

400 (5) The department may adopt rules pursuant to ss.
401 120.536(1) and 120.54 to administer and enforce this section.

402
403 Section 6. Section 648.30, Florida Statutes, is amended to
404 read:

405 648.30 Licensure and appointment required.—

406 3) A person, other than a certified law enforcement
407 officer, may not apprehend, detain, or arrest a principal on a
408 bond, wherever issued, unless that person is:

409 (a) Qualified, licensed, and appointed under ~~as provided in~~
410 this chapter; or

411 (b) Licensed as a bail bond agent or bail bond enforcement
412 agent by the state where the bond was written, or holds an
413 equivalent license issued by such ~~the state where the bond was~~
414 ~~written~~.

415 (4) A licensed bail bond agent who aids or abets an
416 unlicensed person by directing the unlicensed person to
417 apprehend, detain, or arrest a defendant in this state on a
418 bond, wherever issued, is a principal in the first degree as
419 defined in s. 777.011 and may be charged, convicted, and
420 punished for a violation of this section as provided in
421 subsection (5).

422 (5)~~(4)~~ Any person who violates this section commits a
423 felony of the third degree, punishable as provided in s.
424 775.082, s. 775.083, or s. 775.084.

425 Section 7. Subsection (4) of section 648.34, Florida
426 Statutes, is amended to read:

427 648.34 Bail bond agents; qualifications.—

428 (4) The applicant shall furnish, with his or her
429 application, a complete set of his or her fingerprints ~~and a~~
430 ~~recent credential sized, fullface photograph of the applicant.~~
431 ~~The applicant's fingerprints shall be certified by an authorized~~
432 ~~law enforcement officer~~ shall submit his or her fingerprints

433 electronically to the department and must pay the fingerprint
434 processing fee set forth in s. 624.501. The fingerprints shall
435 be taken by a law enforcement agency, designated examination
436 center, or other department approved entity. The department may
437 require all designated examination centers to have
438 fingerprinting equipment and to take fingerprints from any
439 applicant or prospective applicant who pays the applicable fee.
440 Fingerprints shall be processed in accordance with s. 624.34.
441 The department may not approve an application for licensure as a
442 bail bond agent or temporary bail bond agent if fingerprints
443 have not been submitted. The department ~~may shall~~ not authorize
444 an applicant to take the required examination until the
445 department has received a report from the Department of Law
446 Enforcement and the Federal Bureau of Investigation relative to
447 the existence or nonexistence of a criminal history report based
448 on the applicant's fingerprints. In addition to furnishing
449 fingerprints along with his or her application for licensure, a
450 licensed bail bond agent must furnish a complete set of his or
451 her fingerprints to the department upon the department's
452 request.

453 Section 8. Section 648.355, Florida Statutes, is amended to
454 read:

455 648.355 Temporary limited license as limited surety agent
456 or professional bail bond agent; pending examination.-

457 (1) The department may, in its discretion, issue a
458 temporary license as a limited surety agent or professional bail
459 bond agent, subject to the following conditions:

460 (e) The applicant must be employed full time at the time of
461 licensure, and at all times throughout the existence of the
462 temporary license, by only one licensed and appointed
463 supervising bail bond agent at a time, who supervises the work
464 of the applicant and is responsible for the licensee's conduct
465 in the bail bond business. The applicant must be appointed by
466 the supervising agent. ~~the same insurers as the supervising bail~~
467 ~~bond agent.~~

468 (f) The temporary bail bond agent and the supervising bail
469 bond agent who appointed the temporary bail bond agent shall, as
470 part of an ongoing obligation to update the temporary bail bond
471 agent's application, certify monthly to the department under
472 oath, on a form prescribed by the department, the names and
473 hours worked each week of all temporary bail bond agents. Each
474 monthly form must be submitted within 15 days after the last day
475 of the month covered by the form. The department shall treat the
476 submission of each monthly form as part of the temporary bail
477 bond agent's application and as partial fulfillment of the
478 ongoing obligation to update such application. Filing a false
479 certification is grounds for the immediate suspension of the
480 supervising and temporary bail bond agents' licenses ~~license~~ and

481 subjects each licensee to imposition of a \$5,000 administrative
482 fine. The department may adopt rules that establish standards
483 for the employment requirements.

484 (g)~~(f)~~ The application must be accompanied by an affidavit
485 verifying proposed employment and a report as to the applicant's
486 integrity and moral character on a form prescribed by the
487 department and executed by the supervising bail bond agent and
488 the proposed employer.

489 (h)~~(g)~~ The applicant must file with the department
490 statements attesting to the good character of the applicant by
491 at least three reputable citizens who are residents of the same
492 counties in which the applicant proposes to engage as a
493 temporary licensee.

494 (i)~~(h)~~ The applicant's ~~employer~~ supervising bail bond agent
495 is responsible for the bail bonding acts of ~~any~~ the licensee
496 under this section.

497 (j) A temporary bail bond agent must be paid wages. Wages
498 paid to a temporary bail bond agent are subject to s. 443.1217
499 for the purpose of determining an employer's unemployment
500 compensation contribution and must be reported by the agent's
501 employer to the Department of Revenue as required under chapter
502 443.

503 (2) All applicable license fees, as prescribed in s.
504 624.501, must be paid before issuance of the temporary license.

505 (3) The temporary license is ~~shall be~~ effective for 18
506 months, ~~subject to earlier termination at the request of the~~
507 ~~employer or if~~ unless suspended or revoked by the department.

508 (4) The applicant shall furnish electronically, with the
509 application for temporary license, a complete set of the
510 applicant's fingerprints and ~~a recent credential sized, fullface~~
511 ~~photograph of the applicant~~. The applicant's fingerprints shall
512 be certified by an authorized law enforcement officer shall
513 submit his or her fingerprints electronically to the department
514 and must pay the fingerprint processing fee set forth in s.
515 624.501. The fingerprints shall be taken by a law enforcement
516 agency, designated examination center, or other department-
517 approved entity. The department may require all designated
518 examination centers to have fingerprinting equipment and to take
519 fingerprints from any applicant or prospective applicant who
520 pays the applicable fee. Fingerprints shall be processed in
521 accordance with s. 624.34. The department may not approve an
522 application for licensure as a bail bond agent or temporary bail
523 bond agent if fingerprints have not been submitted. The
524 department may ~~shall~~ not issue a temporary license under this
525 section until the department has received a report from the
526 Department of Law Enforcement and the Federal Bureau of
527 Investigation relative to the existence or nonexistence of a
528 criminal history report based on the applicant's fingerprints.

529 (6) After licensure as a temporary licensee for at least 12
530 months, such licensee may file an application for and become
531 eligible for a regular bail bond agent's license based on the
532 licensee's experience in the bail bond business and education
533 pursuant to paragraph (1)(d) and, if otherwise qualified, take
534 the required bail bond agent's licensure examination. The
535 applicant and supervising bail bond agent must each file an
536 affidavit under oath, on a form prescribed by the department,
537 verifying the required employment of the temporary bail bond
538 agent before issuance of the license.

539 (7) ~~In no event shall~~ A temporary licensee licensed under
540 this section may not perform any of the functions for which a
541 bail bond agent's license is required after expiration of the
542 temporary license without having passed the written examination
543 for licensure as for a regular bail bond agent.'s license. A
544 violation of this subsection is a violation of s. 648.30.

545 (8)(a) A temporary licensee has the same authority as a
546 licensed bail bond agent, including presenting defendants in
547 court; apprehending, arresting, and surrendering defendants to
548 the proper authorities; and keeping defendants under necessary
549 surveillance. However, a temporary licensee must be accompanied
550 by the a supervising bail bond agent or another bail bond an
551 agent from the same bail bond agency when apprehending,
552 arresting, or surrendering defendants to authorities.

553 (b) A temporary licensee may not execute or sign bonds,
554 handle initial premium or any collateral receipts, deliver bonds
555 to appropriate authorities, or operate an agency or branch
556 agency separate from the location of the supervising bail bond
557 agent, managing general agent, or insurer by whom the licensee
558 is employed. This paragraph does not prevent a temporary
559 licensee from accepting subsequent outstanding premium payments
560 under a premium payment plan.

561 (9) The department may ~~shall~~ not issue a temporary bail
562 bond agent's license to any individual who has held such a
563 temporary license in this state within 2 years after the
564 expiration or termination of such temporary bail bond agent's
565 license.

566 Section 9. Subsections (2), (5), and (6) of section
567 648.382, Florida Statutes, are amended to read:

568 648.382 Appointment of bail bond agents and temporary bail
569 bond agents; effective date of appointment.—

570 (2) Prior to any appointment, an appropriate officer or
571 official of the appointing insurer in the case of a bail bond
572 agent or an insurer, managing general agent, or bail bond agent
573 in the case of a temporary bail bond agent must submit:

574 (b) An affidavit under oath on a form prescribed by the
575 department, signed by the proposed appointee, stating that
576 premiums, losses, or other contractual obligations are not owed

577 to any insurer and that the appointee will discharge all
578 outstanding forfeitures and judgments on bonds previously
579 written. If the appointee does not satisfy or discharge such
580 forfeitures or judgments or fails to pay premiums, losses, or
581 other contractual obligations that are outstanding or discovered
582 to be outstanding in the future, the former insurer shall file a
583 notice, with supporting documents, with the appointing insurer,
584 the former agent, and the department, stating under oath that
585 the licensee has failed to timely satisfy forfeitures and
586 judgments or has failed to pay premiums, losses, or other
587 contractual obligations that are outstanding on bonds written
588 and that the insurer has satisfied the forfeiture or judgment
589 from its own funds. Upon receipt of such notification and
590 supporting documents, the appointing insurer shall immediately
591 cancel the licensee's appointment. The licensee may be
592 reappointed only upon certification by the former insurer that
593 all forfeitures and judgments on bonds written by the licensee
594 have been discharged and all premiums, losses, and contractual
595 obligations have been paid or met. The appointing insurer or
596 former agent may, within 10 days, file a petition with the
597 department seeking relief from this paragraph. Filing of the
598 petition stays the duty of the appointing insurer to cancel the
599 appointment until the department grants or denies the petition;
600 and

601 (c) Any other information that the department reasonably
602 requires concerning the proposed appointee.

603 (5) ~~A list of current~~ All initial appointments ~~must~~ shall
604 be submitted to the department and become ~~each month but in no~~
605 ~~ease~~ later than 45 days after the date of appointment. ~~All~~
606 ~~appointments are effective as of the date indicated~~ on the date
607 requested on the appointment form.

608 (6) Failure to notify the department within the required
609 time period shall result in the appointing entity being assessed
610 a delinquent fee of \$250. Delinquent fees shall be paid by the
611 appointing entity and may ~~shall~~ not be charged to the appointee.

612 Section 10. Paragraph (a) of subsection (2) and subsection
613 (3) of section 648.385, Florida Statutes, are amended to read:

614 648.385 Continuing education required; application;
615 exceptions; requirements; penalties.-

616 (2)(a) Each person subject to ~~the provisions of this~~
617 chapter must complete a minimum of 14 hours of continuing
618 education ~~courses~~ every 2 years by personally attending
619 classroom courses or completing online ~~in~~ courses, or any
620 combination thereof, approved by the department and in
621 accordance with s. 626.2815. Compliance with continuing
622 education requirements is a condition precedent to the issuance,
623 continuation, or renewal of any appointment subject to ~~the~~
624 ~~provisions of this chapter~~.

625 (3)(a) Any bail-related course developed or sponsored by
626 any authorized insurer or ~~recognized bail bond agents'~~ state
627 association, or any independent study program of instruction,
628 subject to approval by the department, qualifies for the
629 equivalency of the number of classroom hours assigned to such
630 course by the department. However, unless otherwise provided in
631 this section, continuing education credit may not be credited
632 toward meeting the requirements of this section unless the
633 course provides ~~is provided by classroom~~ instruction that:

- 634 1. Occurs in a classroom setting requiring each student's
635 physical attendance for all hours of instruction;
636 2. Occurs online; or
637 3. Results in a monitored examination.

638 Section 11. Section 648.387, Florida Statutes, is amended
639 to read:

640 648.387 ~~Primary~~ bail bond agents in charge; designation as
641 bail bond agent in charge; duties.—

642 (1) The owner or operator of a bail bond agency shall
643 designate a ~~primary~~ bail bond agent in charge, who is licensed
644 and appointed in accordance with this chapter, for each
645 location, and shall file with the department the name and
646 license number of the person and the address of the location on
647 a form approved by the department. The designation of the
648 ~~primary~~ bail bond agent in charge may be changed if the

649 department is notified immediately. Failure to notify the
650 department within 10 working days after such change is grounds
651 for disciplinary action pursuant to s. 648.45.

652 (2) The ~~primary~~ bail bond agent in charge is responsible
653 for the overall operation and management of a bail bond agency
654 location, which ~~whose responsibilities~~ may include, without
655 limitations, hiring and supervising of all individuals within
656 the location, whether they deal with the public in the
657 solicitation or negotiation of bail bond contracts or in the
658 collection or accounting of moneys. A person may be designated
659 as ~~primary~~ bail bond agent in charge for only one bail bond
660 agency location.

661 (3) The department may suspend or revoke the license of the
662 owner, operator, and ~~primary~~ bail bond agent in charge if a bail
663 bond agency employs, contracts with, or uses the services of a
664 person who has had a license denied or whose license is
665 currently suspended or revoked. However, a person who has been
666 denied a license for failure to pass a required examination may
667 be employed to perform clerical or administrative functions for
668 which licensure is not required. The bail bond agency or bail
669 bond agent in charge may require an employee or applicant for
670 employment to submit to a background check annually to determine
671 whether the employee or applicant initially meets or continues
672 to meet the requirements of this chapter. The background check

673 must include a check of the employee's or applicant's criminal
674 history.

675 (4) An owner, operator, or ~~primary~~ bail bond agent in
676 charge may not employ, contract with, or use the services of any
677 person in a bail bond agency who has been charged with, found
678 guilty of, or pled guilty or nolo contendere to a felony or a
679 crime punishable by imprisonment of 1 year or more under the law
680 of any jurisdiction, without regard to whether judgment was
681 entered or withheld by the court.

682 (5) A bail bond agency location may not conduct surety
683 business unless a ~~primary~~ bail bond agent in charge is
684 designated at all times. The failure to designate a ~~primary~~ bail
685 bond agent in charge on a form prescribed by the department,
686 within 10 working days after an agency's inception or a change
687 of ~~primary~~ the bail bond agent in charge, is a violation of this
688 chapter, punishable as provided in s. 648.45.

689 (6) The department shall adopt rules pursuant to ss.
690 120.536(1) and 120.54 to administer and enforce this section.

691 Section 12. Section 648.388, Florida Statutes, is amended
692 to read:

693 648.388 Insurer must appoint managing general agent.—

694 (1) Any insurer regularly engaged in the execution of bail
695 bonds in this state shall have a managing general agent in this
696 state to supervise its agents. Upon the appointment of a

697 managing general agent, the insurer shall file with the
698 department an affidavit under oath, executed by the appointee,
699 certifying that the appointee does not owe any unpaid premiums,
700 losses, or contractual obligations to any insurer and does not
701 have any unpaid judgments or forfeitures in any state. A
702 managing general agent shall maintain an office in this state
703 and maintain all records relating to bonds issued in this state.
704 A managing general agent may maintain the records electronically
705 and shall make the records available at any time upon request by
706 the insurer, the department, or the office.

707 (2) An appointing insurer must certify to the department
708 that the insurer will supervise the activities of the managing
709 general agent appointee.

710 (3) The appointment of a managing general agent by an
711 insurer is deemed to be a certification to the department that
712 the appointing insurer is bound by acts of the managing general
713 agent appointee which are within the scope of his or her
714 appointment.

715 Section 13. Subsection (4) is added to section 648.39,
716 Florida Statutes, to read:

717 648.39 Termination of appointment of managing general
718 agents, bail bond agents, and temporary bail bond agents.-

719 (4) A bail bond agent or managing general agent whose
720 appointment has been terminated by an insurer remains

721 accountable to the insurer until all liability for any bonds
722 written with the insurer by the bail bond agent or managing
723 general agent are discharged or otherwise vacated.

724 Section 14. Section 648.42, Florida Statutes, is amended to
725 read:

726 648.42 Registration of bail bond agents.—A bail bond agent
727 may not become a surety on an undertaking unless he or she has
728 registered in the office of the sheriff and with the clerk of
729 the circuit court in the county in which the bail bond agent
730 resides. The bail bond agent may register in a like manner in
731 any other county, and any bail bond agent shall file a certified
732 copy of the bail bond agent's ~~his or her~~ ~~appointment by~~ power of
733 attorney from each insurer which he or she represents as a bail
734 bond agent with each of such officers. Registration and filing
735 of a certified copy of renewed power of attorney shall be
736 performed by April 1 of each odd-numbered year, and the form
737 must include the effective date of the registration. The clerk
738 of the circuit court and the sheriff may ~~shall~~ not permit the
739 registration of a bail bond agent unless such bail bond agent is
740 currently licensed and appointed ~~by~~ through the department.
741 ~~Nothing in~~ This section does not ~~shall~~ prevent the registration
742 of a temporary licensee at the jail for the purposes of enabling
743 the licensee to perform the duties under such license as set
744 forth in this chapter.

745 Section 15. Section 648.421, Florida Statutes, is amended
746 to read:

747 648.421 Notice of change of name, address, or telephone
748 number.—

749 (1) Each licensee under this chapter shall notify, in
750 writing, the department, insurer, managing general agent, and
751 ~~the~~ clerk of each court in which the licensee is registered
752 within 10 working days after a change in the licensee's
753 principal business address or telephone number. The licensee
754 shall also notify the department within 10 working days after a
755 change of the name, address, or telephone number of each bail
756 bond agency or firm for which he or she writes bonds and any
757 change in the licensee's name, home address, e-mail address, or
758 telephone number.

759 (2) A bail bond agent may electronically submit through the
760 department's website the written notifications required under
761 subsection (1).

762 Section 16. Section 648.43, Florida Statutes, is amended to
763 read:

764 648.43 Power of attorney; to be approved by department;
765 filing of copies; notification of transfer bond.—

766 (1) Every insurer engaged in the writing of bail bonds
767 through bail bond agents in this state shall submit and have
768 approved by the ~~department~~ office a sample power of attorney,

769 which shall ~~will~~ be the only form of power of attorney the
770 insurer will issue to bail bond agents in this state.

771 (2) Every professional bail bond agent who authorizes a
772 licensed professional bail bond agent directly employed and
773 appointed by him or her to sign his or her name to bonds must
774 file a copy of the power of attorney given to the appointed
775 professional bail bond agent with the sheriff and the clerk of
776 the circuit court in the county in which he or she resides and
777 with the office ~~department~~. Such power of attorney shall remain
778 in full force and effect until written notice revoking the power
779 of attorney has been received by the above-named officials.

780 (3) Every bail bond agent who executes or countersigns a
781 transfer bond shall indicate in legible print ~~writing~~ on the
782 original and each copy of the bond:

783 (a) The name and address of the ~~referring~~ requesting bail
784 bond agent.

785 (b) The identifying number that appears on the license
786 issued by this state to the bail bond agent who is requesting
787 the transfer bond.

788 Section 17. Paragraphs (a), (b), (c), and (o) of subsection
789 (1), paragraphs (a) and (e) of subsection (6), subsection (7),
790 and paragraph (a) of subsection (9) of section 648.44, Florida
791 Statutes, are amended, paragraphs (q), (r), and (s) are added to
792 subsection (1) of that section, and subsection (10) is added to

793 that section, to read:

794 648.44 Prohibitions; penalty.—

795 (1) A bail bond agent or temporary bail bond agent may not:

796 (b) Directly or indirectly solicit business in or on the
797 property or grounds of a jail, prison, or other place where
798 prisoners are confined or in or on the property or grounds of
799 any court, or use an unlicensed person for the purpose of
800 solicitation. The term "solicitation" includes the distribution
801 of business cards, print advertising, or other written or oral
802 information or the use of electronic media that is directed to
803 prisoners or potential indemnitors, unless a request is
804 initiated by the prisoner or a potential indemnitor. Permissible
805 print advertising in the jail is strictly limited to a listing
806 in a telephone directory and the posting of the bail bond
807 agent's or agency's name, address, and telephone number in a
808 designated location within the jail.

809 (c) Initiate in person or by telephone any solicitation
810 after 9:00 p.m. or before 8:00 a.m., ~~in the case of domestic~~
811 ~~violence cases, at the residence of the detainee or the~~
812 ~~detainee's family. Any solicitation not prohibited by this~~
813 ~~chapter must comply with the telephone solicitation requirements~~
814 ~~in ss. 501.059(2) and (4), 501.613, and 501.616(6).~~

815 (o) 1. Use, or attempt to use, threats or coercion when
816 trying to collect, ~~through threat or coercion,~~ amounts due for

817 the payment of any indebtedness related to the issuance of a
818 bail bond in violation of s. 559.72.

819 2. Use, or attempt to use, threats or coercion to deal with
820 any matter related to the issuance of a bail bond in violation
821 of s. 559.72.

822 (q) Pay a fee or rebate or give or promise anything of
823 value to an inmate or any other person on behalf of the inmate
824 in return for the referral of bail bond business.

825 (r) Act as a professional bail bond agent without first
826 obtaining a license as a professional bail bond agent. This
827 paragraph also restricts a limited surety agent or a managing
828 general agent from acting as a professional bail bond agent
829 without first obtaining a license as a professional bail bond
830 agent.

831 (6)(a) A ~~Ne~~ bail bond agency may not shall advertise as or
832 hold itself out to be a bail bond or surety company, unless they
833 hold a certificate of authority as provided in s. 624.413, F.S.

834 (e)1. A bail bond agent may not make material
835 misrepresentations or omissions in statements or use
836 advertisements that constitute material misrepresentations of
837 facts, create unjust expectations concerning services, or make
838 improper comparisons.

839 5. A bail bond agent must return all premiums collected on
840 a bond immediately if the bond is not posted at the jail where

841 the defendant is incarcerated.

842 (7) Any permissible advertising by a bail bond agent or
843 agency must include the address of record filed with the
844 department and the license number of the bail bond agent.

845 (9)(a) Any person who violates any provisions of paragraph
846 (1)(e), paragraph (1)(f), paragraph (1)(g), paragraph (1)(j), ~~or~~
847 paragraph (1)(n), paragraph (1)(q), paragraph (1)(r), or
848 subsection (2) commits a felony of the third degree, punishable
849 as provided in s. 775.082, s. 775.083, or s. 775.084.

850 (10) The department may adopt rules pursuant to ss.
851 120.536(1) and 120.54 to administer and enforce this section.

852 Section 18. Subsections (3) and (4) of section 648.442,
853 Florida Statutes, are amended to read:

854 648.442 Collateral security.-

855 (3) Collateral security shall be received and held in the
856 insurer's name by the bail bond agent in a fiduciary capacity
857 and, prior to any forfeiture of bail, shall be kept separate and
858 apart from any other funds or assets of such bail bond agent.
859 When collateral security equal to or in excess of \$5,000 cash or
860 its equivalent is received by a bail bond agent, the entire
861 amount shall be immediately forwarded to the insurer. Such
862 collateral security may be placed in an interest-bearing account
863 to accrue to the benefit of the person giving the collateral
864 security, and the bail bond agent, insurer, or managing general

865 agent may not make any pecuniary gain on the collateral security
866 deposited. Any such account shall be in a depository office of a
867 financial institution located in this state. The insurer shall
868 be liable for all collateral received. If the bail bond agent or
869 managing general agent fails to return the collateral to the
870 indemnitor upon final termination of liability on the bond, the
871 surety shall be liable for the collateral and shall return the
872 actual collateral to the indemnitor or, in the event that the
873 surety cannot locate the collateral, the surety shall pay the
874 indemnitor pursuant to the provisions of this section.

875 (4) When the obligation of the surety on the bond or bonds
876 has been released:

877 (a) In writing by the court;

878 (b) Through the application of s. 648.571(2); or

879 (c) Upon expiration of the bond pursuant to s. 903.31(1),

880 the collateral shall be returned to the rightful owner named in
881 the collateral receipt unless another disposition is provided
882 for by legal assignment of the right to receive the collateral
883 to another person.

884 Section 19. Paragraph (j) of subsection (2), paragraphs (c)
885 and (e) of subsection (3), and subsection (4) of section 648.45,
886 Florida Statutes, are amended, and subsection (7) is added to
887 that section, to read:

888 648.45 Actions against a licensee; suspension or revocation

889 of eligibility to hold a license.-

890 (3) The department may deny, suspend, revoke, or refuse to
891 renew any license or appointment issued under this chapter or
892 the insurance code, or it may suspend or revoke the eligibility
893 of any person to hold a license or appointment under this
894 chapter or the insurance code, for any violation of the laws of
895 this state relating to bail or any violation of the insurance
896 code or for any of the following causes:

897 (e) Being found to be a source of injury, potential harm,
898 or loss to the public or detrimental to the public interest or
899 being found by the department to be no longer carrying on the
900 bail bond business in good faith.

901 (4) Any licensee found to have violated s. 648.44(1)(b),
902 (d), (g), (h), or (i) shall, at a minimum, be suspended for a
903 period of 3 months. A greater penalty, including revocation,
904 shall be imposed if there is a willful or repeated violation of
905 s. 648.44(1)(b), (d), (g), (h), or (i) ~~or~~ if the licensee has
906 committed other violations of this chapter.

907 (7) The department shall, in its order suspending a license
908 or appointment or in its order suspending the eligibility of a
909 person to hold or apply for such license or appointment, specify
910 the period during which the suspension is to be in effect. The
911 license, appointment, or eligibility shall remain suspended
912 during the period so specified, subject, however, to any

913 rescission or modification of the order by the department, or
914 modification or reversal thereof by the court, prior to
915 expiration of the suspension period. A license, appointment, or
916 eligibility that has been suspended shall not be reinstated
917 except upon the filing and approval of an application for
918 reinstatement but the department shall not approve an
919 application for reinstatement if it finds that the circumstance
920 or circumstances for which the license, appointment, or
921 eligibility was suspended still exist or are likely to recur. In
922 addition, an application for reinstatement is subject to denial
923 on the same grounds that apply to applications for licensure
924 pursuant to ss. 648.34, 648.35 and 648.355.

925 Section 20. Section 648.55, Florida Statutes, is amended to
926 read:

927 648.55 All bail bond agents of same agency; licensed by
928 same companies.—All bail bond agents who are members of the same
929 agency, partnership, corporation, or association shall be
930 appointed to represent the same companies. If any member of such
931 agency, partnership, corporation, or association is licensed and
932 appointed as a professional bail bond agent, all members thereof
933 shall be so licensed and appointed. It is the responsibility of
934 each insurer to require that each bail bond agent in a bail bond
935 ~~an~~ agency is appointed to represent that particular insurer. It
936 is the responsibility of the agent in charge to notify the

937 insurers of the identity of the agents in the bail bond agency
938 and verify that the agents are appointed as required.

939 Section 21. Subsections (3) and (4) of section 648.571,
940 Florida Statutes, are amended to read:

941 648.571 Failure to return collateral; penalty.—

942 (3)(a) Fees or charges other than those provided in this
943 chapter or by rule of the department or commission may not be
944 deducted from the collateral due.

945 (b)1. The bail bond agent may charge the credit card fee
946 imposed in connection with the use of the credit card for
947 payment of collateral if the fee is clearly shown on the
948 collateral receipt and is acknowledged by the person tendering
949 the credit card.

950 2. The prevailing schedule of credit card fees must be
951 conspicuously posted in the lobby of the bail bond agency, and a
952 copy must be provided to the person tendering the credit card.

953 (c) Allowable expenses incurred in apprehending a defendant
954 because of a bond forfeiture or judgment under s. 903.29 may be
955 deducted if such expenses are accounted for.

956 (d) The bail bond agent may not impose any restrictions on
957 the return of the collateral other than those provided under
958 this chapter.

959 (e) The failure to return collateral under these terms is
960 punishable as follows:

961 1. If the collateral is of a value less than \$100, as
962 provided in s. 775.082(4)(a).

963 2. If the collateral is of a value of \$100 or more, as
964 provided in s. 775.082(3)(d).

965 3. If the collateral is of a value of \$1,500 or more, as
966 provided in s. 775.082(3)(c).

967 4. If the collateral is of a value of \$10,000 or more, as
968 provided in s. 775.082(3)(b).

969 Section 22. This act shall take effect October 1, 2012.