

1 **CHAPTER 648**

2 **BAIL BOND AGENTS**

3 **648.24 Declaration of public policy.--**

4 *No changes*

5 **648.25 Definitions.--**

6 As used in this chapter, the term:

7 (1) "Agent in charge" means a licensed and appointed bail bond agent who is
8 responsible for the overall operation and management of a bail bond agency
9 location and whose responsibilities include hiring and supervising all
10 individuals within that location. A bail bond agent may be designated as
11 primary bail bond agent for only one bail bond agency at a single agency
12 location.

13 ~~(1)~~ (2) "Bail bond agency" means:

14 (a) The building where a licensee maintains an office and where all records
15 required by ss. 648.34 and 648.36 are maintained; or

16 (b) An entity that:

1 1. Charges a fee or premium to release an accused defendant or
2 detainee from jail; or

3 2. Engages in or employs others to engage in any activity that may be
4 performed only by a licensed and appointed bail bond agent; or

5 3. Provides a guarantee to the court, jail, or any government entity that
6 funds will be delivered in exchange for the release of a defendant,
7 regardless of any fee that may be charged for this service.

8 4. Delivers funds on behalf of another to a court, jail, or any government
9 entity for the release of a defendant from custody in return for a fee,
10 charge, or any other compensation.

11 5. Advertises or gives public notice in any manner in or on the grounds
12 of a courthouse, jail, sheriff department or other government building,
13 facility or office the purpose of which is to advance or make available
14 funds to be used in the release of a person from custody.¹

15 ~~(2)~~ (3) "Bail bond agent" means a limited surety agent or a professional bail
16 bond agent as hereafter defined.

¹ D Amato request

1 ~~(3)~~ (4) "Managing general agent" means any individual, partnership,
2 association, or corporation appointed or employed by an insurer to supervise or
3 manage the bail bond business written in this state by limited surety agents
4 appointed by the insurer.

5 ~~(4)~~ (5) "Insurer" means any domestic, foreign, or alien surety company which
6 has been authorized to transact surety business in this state.

7 ~~(5)~~ (6) "Limited surety agent" means any individual appointed by an insurer
8 with the department and by power of attorney to execute or countersign bail
9 bonds in connection with judicial proceedings who receives, collects, or is
10 promised money or other things of value therefor.

11 ~~(6) "Primary bail bond agent" means a licensed bail bond agent who is~~
12 ~~responsible for the overall operation and management of a bail bond agency~~
13 ~~location and whose responsibilities include hiring and supervising all~~
14 ~~individuals within that location. A bail bond agent may be designated as~~
15 ~~primary bail bond agent for only one bail bond agency location.~~

1 (7) "Professional bail bond agent" means any person who pledges United States
2 currency, United States postal money orders, or cashier's checks as security for
3 a bail bond in connection with a judicial proceeding and receives or is promised
4 therefor money or other things of value.

5 (8) "Supervising bail bond agent" means a licensed and appointed bail bond
6 agent who appoints and supervises the work of a temporary bail bond agent,
7 and is responsible for the temporary licensee's conduct in the bail bond
8 business.

9 (9) "Surety" as used in this chapter means any domestic, foreign, or alien surety
10 company which has been authorized to transact limited surety business in this
11 state and a certificate of authority pursuant to s. 624.413.

1 ~~(8)~~(10) "Temporary bail bond agent" means a person employed by a bail bond
2 agent or agency, insurer, or managing general agent, and such licensee has the
3 same authority as a licensed bail bond agent, including presenting defendants
4 in court; apprehending, arresting, and surrendering defendants to the proper
5 authorities, while accompanied by a supervising bail bond agent or an agent
6 from the same agency; and keeping defendants under necessary surveillance.
7 However, a temporary licensee may not execute or sign bonds, handle collateral
8 receipts, or deliver bonds to appropriate authorities. A temporary licensee may
9 not operate an agency or branch agency separate from the location of the
10 supervising bail bond agent, managing general agent, or insurer by whom the
11 licensee is employed. This does not affect the right of a bail bond agent or
12 insurer to hire counsel or to obtain the assistance of law enforcement officers.

13 **648.26 Department of Financial Services; administration.--**

14 *No change*

15 **648.27 Licenses and appointments; general.--**

16 (1) A license may not be issued except in compliance with this chapter, ~~and~~
17 ~~may not be issued except to an individual.~~ A firm, partnership, association, or
18 corporation, as such, ~~may not~~ shall be licensed.

1 (2) For the protection of the people of this state, the department may not
2 issue, renew, or permit to exist any license or appointment except in
3 compliance with this chapter. The department may not issue, renew, or permit
4 to exist a license or appointment for any individual found to be untrustworthy
5 or incompetent who has had his or her eligibility to hold a license or
6 appointment revoked, or who has not established to the satisfaction of the
7 department that he or she is qualified therefor in accordance with this chapter.

8 (3) The department may propound any reasonable interrogatories to an
9 applicant for a license or appointment under this chapter or on any renewal
10 thereof, relating to his or her qualifications, residence, prospective place of
11 business, and any other matters which are deemed necessary or expedient in
12 order to protect the public and ascertain the qualifications of the applicant. The
13 department may also conduct any reasonable inquiry or investigation it sees fit,
14 relative to the determination of the applicant's fitness to be licensed or
15 appointed or to continue to be licensed or appointed. Upon the request of the
16 department, a law enforcement agency shall inform the department of any
17 specific criminal charge filed against any applicant or licensee and the final
18 disposition of such charge.

1 (4) If upon the basis of the completed application for a license or appointment
2 and such further inquiry or investigation the department deems the applicant to
3 be unfit as to character and background or lacking in one or more of the
4 required qualifications for the license or appointment, the department shall
5 disapprove the application.

6 (5)(a) The license of a bail bond agent shall continue in force, without further
7 examination unless deemed necessary by the department, until suspended,
8 revoked, or otherwise terminated.

9 (b) The license of a temporary bail bond agent shall continue in force until
10 suspended, revoked, or otherwise terminated. Such licensee shall be effective
11 for not more than 18 months and shall not be issued to any individual who has
12 held such license within 2 years after the expiration or termination of such
13 temporary bail bond agent license.

14 (6) The original license issued to a licensee under this chapter shall remain
15 outstanding and in effect for so long as the license represented thereby
16 continues in force as provided in this section. The department may at any time
17 require the licensee to produce his or her department-issued photo
18 identification.

1 (7) Any person who represents a surety company, whose duties are restricted
2 to bail bonds, and who comes under the definition of "service representative" as
3 provided in s. 626.015 shall be licensed and appointed as a bail bond agent.

4 (8) An application for a managing general agent's license must be made by an
5 insurer who proposes to employ or appoint an individual, partnership,
6 association, or corporation as a managing general agent. Such application shall
7 contain the information required by s. 626.744, and the applicant shall pay the
8 same fee as a managing general agent licensed pursuant to that section. An
9 individual who is a managing general agent must also be licensed and
10 appointed as a bail bond agent at all times during licensure as a managing
11 general agent. In the case of an entity, ~~at least one~~all owners, officers, or
12 directors at each office location must be licensed and appointed as a bail bond
13 agent.

14 (a) A managing general agent must have obtained a fidelity or surety bond in an
15 amount not less than \$250,000, acceptable to the insurer appointing the
16 agency.²

² FSAA request

1 (9) If, upon application for an appointment and such investigation as the
2 department may make, it appears to the department that an ~~individual~~ licensee
3 has been actively engaged or is currently actively engaged in bail bond activities
4 without being appointed as required, the department may, if it finds that such
5 failure to be appointed is an error on the part of the insurer or employer so
6 represented, issue or authorize the issuance of the appointment as applied for,
7 but subject to the condition that, before the appointment is issued, all fees and
8 taxes which would have been due had the applicant been so appointed during
9 such current and prior periods, together with a continuation fee for such
10 current and prior terms of appointment, shall be paid to the department.

11 Failure to notify the department ~~within the required time period~~ shall result in
12 the appointing entity being assessed a delinquent fee of no less than
13 ~~\$2501,000~~. Delinquent fees shall be paid by the appointing entity and shall not
14 be charged to the appointee.

15 (10) The department may adopt rules pursuant to ss. 120.536(1) and 120.54 to
16 administer and enforce the provisions of this section.

17 **648.279 Scope of license.—**

18 *No change*

1 **648.285 Bail Bbond agency; ownership requirements; license required.**---

2 (1) A person may not own, control, or ~~otherwise have a pecuniary interest in~~
3 manage a bail bond agency unless such individual ~~is a~~ has been licensed and
4 appointed as a bail bond agent for at least three years.³ Any bail bond agency
5 that is not in compliance with this subsection shall be subject to the issuance of
6 an immediate final order of suspension of all operations until the agency
7 achieves compliance.

8 (2) If the owner of a bail bond agency dies or becomes mentally incapacitated,
9 a personal representative or legal guardian may be issued a temporary permit
10 to manage the affairs of the bail bond agency. Such person must appoint or
11 maintain the appointment of an primary bail bond agent in charge, as provided
12 in s. 648.387, and may not engage in any activities as a licensed bail bond
13 agent but must comply with s. 648.387 during the administration of the estate
14 or guardianship. A temporary permit is valid for a maximum of 24 months.

15 (3) Application for a temporary permit must be made by the personal
16 representative or legal guardian upon statements and affidavits filed with the
17 department on forms prescribed and furnished by it. The applicant must meet

³ FSAA request

1 the qualifications for licensure as a bail bond agent, except for the residency,
2 examination, education, and experience requirements.

3 (4)(a) Effective January 1, 2010, no individual, firm, partnership, corporation,
4 association, or any other entity shall act as a bail bond agency, unless it
5 complies with s. 648.287 with respect to possessing a bail bond agency license
6 for each place of business at which it engages in any activity which may be
7 performed only by a licensed bail bond agent. Each bail bond agency engaged
8 in business before January 1, 2010, shall file an application for licensure on or
9 before January 1, 2010.

10 1. If a bail bond agency is required to be licensed but fails to file an application
11 for licensure in accordance with this section, the department shall impose on
12 the agency an administrative penalty in an amount of \$10,000.

13 (5) The department may adopt rules pursuant to ss. 120.536(1) and 120.54 to
14 administer and enforce the provisions of this section.

15

16 **648.287 Application for bail bond agency license.—**

1 (1) The department may issue a license as a bail bond agency to any person
2 only after such person files an application with the department and qualifies for
3 such license.

4 (2) An application for a bail bond agency license shall be signed by the owner
5 or owners of the agency. If the bail bond agency is incorporated, the application
6 shall be signed by the president and secretary of the corporation. The
7 application for a bail bond agency license shall include:

8 (a) The name of each majority owner, partner, officer, and director of the
9 insurance agency.

10 (b) The residence address of each person required to be listed in the
11 application under paragraph (a).

12 (c) The name of the bail bond agency and its principal business address.

13 (d) The location of each bail bond agency office and the name under which
14 each bail bond agency office conducts or will conduct business.

15 (e) The name of each agent to be in full-time charge of a bail bond agency
16 office and specification of which office.

17 (f) The fingerprints of each of the following:

- 1 1. A sole proprietor;
 - 2 2. Each partner;
 - 3 3. Each owner of an unincorporated agency;
 - 4 4. Each owner who directs or participates in the management or control of an
 - 5 incorporated agency whose shares are not traded on a securities exchange;
 - 6 5. The president, senior vice presidents, treasurer, secretary, and directors of
 - 7 the bail bond agency; and
 - 8 6. Any other person who directs or participates in the management or control
 - 9 of the agency, whether through the ownership of voting securities, by contract,
 - 10 or otherwise.
- 11 Fingerprints must be taken by a law enforcement agency or other entity
- 12 approved by the department and must be accompanied by the fingerprint
- 13 processing fee specified in s. 624.501. Fingerprints shall be processed in
- 14 accordance with s. 624.34. However, fingerprints need not be filed for any
- 15 individual who is currently licensed and appointed under this chapter and has
- 16 filed their fingerprints to the department within thirty-six (36) months prior to
- 17 licensure of the agency.

1 (g) Such additional information as the department requires by rule to ascertain
2 the trustworthiness and competence of persons required to be listed on the
3 application and to ascertain that such persons meet the requirements of this
4 code.

5 (3) The department shall issue a license to each bail bond agency upon
6 approval of the application, and each bail bond agency shall display the license
7 prominently in a manner that makes it clearly visible to any customer or
8 potential customer who enters the bail bond agency.

9 (4) The department may adopt rules pursuant to ss. 120.536(1) and 120.54 to
10 administer, define and enforce the provisions of this section.

1 **648.29 Build-up funds posted by bail bond agent.--**

2 (1) All build-up funds pledged to indemnify an insurer which are posted by a
3 bail bond agent or agency with the insurer must be held in an individual build-
4 up trust account for the agent or agency in an FDIC-approved or FSLIC-
5 approved bank or savings and loan association in this state, jointly in the name
6 of the agent or agency and the insurer or in trust for the agent or agency by the
7 insurer. Such account must remain open to inspection and examination by the
8 department and office at all times. An accounting of all such funds shall be
9 maintained which designates the amounts collected on each bond written.

10 (2) Build-up funds may not exceed 40 percent of the premium as established
11 by the agent's contract agreement with the insurer or managing general agent.
12 Build-up funds received shall be immediately deposited to the build-up trust
13 account. Interest on such accounts shall accrue to the bail bond agent.

1 (3) Build-up funds are maintained as a trust fund created on behalf of a bail
2 bond agent or agency, held by the insurer in a fiduciary capacity to be used to
3 indemnify the insurer for losses and any other agreed-upon costs related to a
4 bail bond executed by the agent. The build-up funds are the sole property of
5 the agent or agency. Upon termination of the bail bond agency or agent's
6 contract and discharge of open bond liabilities on the bonds written, with no
7 pending litigation involving the bonds,⁴ build-up funds are due and payable to
8 the bail bond agent or agency not later than 6 months after final discharge of
9 the open bond liabilities.

10 (4) Each insurer authorized to write bail bonds in this state and each managing
11 general agent must furnish to the ~~department~~ office a certified copy of a
12 statement listing each build-up trust account and the balance therein, or a
13 written attestation that the company does not maintain build-up fund accounts.
14 Failure of an insurer to provide these statements by March 1 of each year may
15 result in a fine to the insurer of \$1,000 per agent each month until the
16 statements are received by the office.

17 (5) Insurers must provide copies of build-up fund account bank statements to
18 their agents and agencies.

⁴ FSAA request

1 (6) The department and office may adopt rules pursuant to ss. 120.536(1) and
2 120.54 to administer and enforce the provisions of this section.

3 **648.295 Reporting and accounting of funds.--**

4 (1) All premiums, return premiums, collateral, or other funds belonging to
5 insurers or others received by a person licensed pursuant to this chapter in
6 transactions under her or his license are trust funds received by the licensee in
7 a fiduciary capacity, and the licensee must account for and pay the same to the
8 insurer, insured, managing general agent, or other person entitled to such
9 funds, within 30 days of the undertaking.⁵

10 (2) A licensee shall keep and make available to the department books,
11 accounts, and records as necessary to enable the department to determine
12 whether such licensee is complying with this chapter. A licensee shall preserve
13 the books, accounts, and records pertaining to a premium payment for at least
14 3 years after making such payment. Records that are preserved by computer or
15 photographic reproduction or records that are in photographic form constitute
16 compliance with this requirement.

⁵ D Amato request

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

4 **648.30 Licensure and appointment required.--**

5 (1) A person, or other entity may not act in the capacity of a bail bond agent or
6 temporary bail bond agent or perform any of the functions, duties, or powers
7 prescribed for bail bond agents or temporary bail bond agents under this
8 chapter unless that person is qualified, licensed, and appointed as provided in
9 this chapter.

10 (2) A person may not represent himself or herself to be a bail enforcement
11 agent, bounty hunter, or other similar title in this state.

12 (3) A person, other than a certified law enforcement officer, may not
13 apprehend, detain, or arrest a principal on a bond, wherever issued, unless that
14 person is qualified, licensed, and appointed as provided in this chapter, or
15 licensed as a bail bond agent or ~~bail bond enforcement agent~~, or holds an
16 equivalent license by the state where the bond was written.

1 (4) Licensed bail bond agents that direct non-licensed people to apprehend,
2 detain, or arrest a principal on a bond in Florida, wherever issued, will be
3 deemed to have aided and abetted an unlicensed person. Violators of this
4 section will be held to the same penalty as the unlicensed person.

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

7 **648.31 Appointment taxes and fees.—**

8 *No changes*

9 **648.315 Number of applications for licensure required.--**

10 | *No changes*

11 **648.33 Bail bond rates.--**

12 (1) Bail bond rates are subject to the provisions of part I of chapter 627 of the
13 insurance code.

14 (2) It is unlawful for a bail bond agent to execute a bail bond without charging
15 and collecting⁶ a premium therefor, and the premium rate may not exceed or
16 be less than the premium rate as filed with and approved by the office.

⁶ D Amato

1 (3) Any person who violates this section commits a misdemeanor of the first
2 degree, punishable as provided in s. 775.082 or s. 775.083.

3 (4) The department and office may adopt rules to define and enforce the
4 provisions of this section.

5 **648.34 Bail bond agents; qualifications.—**

6 1) An application for licensure as a bail bond agent must be submitted on
7 forms prescribed by the department.

8 (2) To qualify as a bail bond agent, it must affirmatively appear at the time of
9 application and throughout the period of licensure that the applicant has
10 complied with the provisions of s. 648.355 and has obtained a temporary
11 license pursuant to such section and:

12 (a) The applicant is a natural person who has reached the age of 18 years and
13 holds a high school diploma or its equivalent.

1 (b) The applicant is a United States citizen ~~or legal alien who possesses work~~
2 ~~authorization from the United States Bureau of Citizenship and Immigration~~
3 ~~Services~~⁷ and is a resident of this state. An individual who is a resident of this
4 state shall be deemed to meet the residence requirement of this paragraph,
5 notwithstanding the existence, at the time of application for license, of a
6 license in the applicant's name on the records of another state as a resident
7 licensee of such other state, if the applicant furnishes a letter of clearance
8 satisfactory to the department that his or her resident licenses have been
9 canceled or changed to a nonresident basis and that he or she is in good
10 standing.

11 (c) The place of business of the applicant will be located in this state and in the
12 county where the applicant will maintain his or her records and be actively
13 engaged in the bail bond business and maintain an agency accessible to the
14 public which is open for reasonable business hours.

15 (d) The applicant is vouched for and recommended upon sworn statements
16 filed with the department by at least three reputable citizens who are residents
17 of the same counties in which the applicant proposes to engage in the bail
18 bond business.

⁷ FSA request

1 (e) The applicant is a person of high character and approved integrity and has
2 not been convicted of or pleaded guilty or no contest to a felony, a crime
3 involving moral turpitude, or a crime punishable by imprisonment of 1 year or
4 more under the law of any state, territory, or country, whether or not a
5 judgment or conviction has been entered.

6 (f) The applicant has passed any required examination.

7 (3) The department may collect a fee necessary to cover the cost of a character
8 and credit report made by an established and reputable independent reporting
9 service. The fee shall be deposited to the credit of the Insurance Regulatory
10 Trust Fund. Any information so furnished is confidential and exempt from the
11 provisions of s. 119.07(1).

1 (4) The applicant shall furnish, with his or her application, a complete set of his
2 or her fingerprints ~~and a recent credential-sized, fullface photograph of the~~
3 ~~applicant~~. The applicant's fingerprints shall be certified by an authorized law
4 enforcement officer. The department shall not authorize an applicant to take
5 the required examination until the department has received a report from the
6 Department of Law Enforcement and the Federal Bureau of Investigation relative
7 to the existence or nonexistence of a criminal history report based on the
8 applicant's fingerprints.

9 (a) Upon licensure as a bail bond agent, the licensee shall provide to the
10 department a complete set of his or her fingerprints every thirty-six (36)
11 months.

12 (5) The department shall conduct a comprehensive investigation of each
13 applicant, including a background check. The investigation of the applicant's
14 qualifications, character, experience, background, and fitness shall include
15 submission of the applicant's fingerprints to the Department of Law
16 Enforcement and the Federal Bureau of Investigation and consideration of any
17 state criminal records, federal criminal records, or local criminal records
18 obtained from these agencies or from local law enforcement agencies.

1 (6) The provisions of s. 112.011 do not apply to bail bond agents or to
2 applicants for licensure as bail bond agents.

3 **648.35 Professional bail bond agent; qualifications.--**

4 *No changes*

5 **648.355 Temporary limited license as limited surety agent or professional bail**
6 **bond agent; pending examination.--**

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

10 (a) The applicant is a natural person at least 18 years of age and furnishes
11 evidence that he or she holds a high school diploma or its equivalent.

12 (b) The applicant is a United States citizen ~~or legal alien who possesses~~
13 ~~work authorization from the United States Bureau of Citizenship and~~
14 ~~Immigration Services~~⁸ and is a resident of this state. An individual who is a
15 resident of this state shall be deemed to meet the residence requirement of
16 this paragraph, notwithstanding the existence, at the time of application for
17 temporary license, of a license in the individual's name on the records of

⁸ FSA request

1 another state as a resident licensee of such other state, if the applicant
2 furnishes a letter of clearance satisfactory to the department that the
3 individual's resident licenses have been canceled or changed to a
4 nonresident basis and that the individual is in good standing.

5 (c) The applicant is a person of high character and approved integrity and
6 has never been convicted of or pleaded guilty or no contest to a felony, a
7 crime involving moral turpitude, or a crime punishable by imprisonment of 1
8 year or more under the law of any state, territory, or country, whether or not
9 a judgment or conviction is entered.

10 (d) Within 4 years prior to the date of application for a temporary license,
11 the applicant has successfully completed a basic certification course in the
12 criminal justice system, consisting of not less than 120 hours of classroom
13 instruction with a passing grade of 80 percent or higher and has successfully
14 completed a correspondence course for bail bond agents approved by the
15 department.

16 (e) The applicant must be employed full time at the time of licensure, and at
17 all times throughout the existence of the temporary license, by only one
18 licensed and appointed supervising bail bond agent at a time, who

1 supervises the work of the applicant and is responsible for the licensee's
2 conduct in the bail bond business. The applicant must be appointed by the
3 supervising agent and the same insurers as the supervising bail bond agent.

4 (f) The temporary bail bond agent and the supervising bail bond agent that
5 appointed the temporary bail bond agent shall certify monthly to the
6 department under oath, on a form prescribed by the department, the names
7 and hours worked each week of all temporary bail bond agents. This form is
8 considered part of the application for a license by the temporary bail bond
9 agent and must be submitted within 15 days after the last day of the month
10 reported on the form. Failure to submit the report within this time period
11 may result in a fine to the supervising bail bond agent of an amount not to
12 exceed \$500 per month until the form is received by the department. Filing
13 a false certification is grounds for the immediate suspension of the
14 supervising and temporary bail bond agent's license and imposition of a
15 \$510,000 administrative fine. ~~The department may adopt rules that~~
16 ~~establish standards for the employment requirements.~~

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

5 ~~(g)~~ (h) The applicant must file with the department statements by at least
6 three reputable citizens who are residents of the same counties in which the
7 applicant proposes to engage as a temporary licensee.

8 ~~(h)~~ (i) The applicant's employer ~~is~~ and supervising bail bond agent are
9 responsible for the bail bonding acts of any licensee under this section.

10 (j) The temporary bail bond agent is to be paid wages as defined by s.
11 443.1217 and the wages reported by the employer to the Florida
12 Department of Revenue as required by chapter 443 F.S..

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

15 (3) The temporary license shall be effective for 18 months, subject to earlier
16 termination at the request of the employer or supervising bail bond agent, or if
17 suspended or revoked by the department.

1 (4) The applicant shall furnish electronically, with the application for temporary
2 license, a complete set of the applicant's fingerprints ~~and a recent credential-~~
3 ~~sized, fullface photograph of the applicant. The applicant's fingerprints shall be~~
4 ~~certified by an authorized law enforcement officer.~~ The department shall not
5 issue a temporary license under this section until the department has received a
6 report from the Department of Law Enforcement and the Federal Bureau of
7 Investigation relative to the existence or nonexistence of a criminal history
8 report based on the applicant's fingerprints.

9 (5) The department may collect a fee necessary to cover the cost of a character
10 and credit report made by an established and reputable independent reporting
11 service. The fee shall be deposited to the credit of the Insurance Regulatory
12 Trust Fund.

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

9 (a) Temporary agents after becoming limited surety agents must be licensed
10 and appointed for three years prior to qualifying as an agent in charge or
11 becoming an agency owner.⁹

12 (7) In no event shall a temporary licensee licensed under this section perform
13 any of the functions for which a bail bond agent's license is required after
14 expiration of the temporary license without having passed the ~~written~~
15 examination as for a ~~regular bail bond~~ limited surety or professional bail bond
16 agent's license. Violations of this section are subject to the provisions of s.
17 648.30.

⁹ FSAA request

1 (8)(a) A temporary licensee has the same authority as a licensed bail bond
2 agent, including presenting defendants in court; apprehending, arresting, and
3 surrendering defendants to the proper authorities; and keeping defendants
4 under necessary surveillance. However, a temporary licensee must be
5 accompanied by ~~a~~the supervising bail bond agent or another bail bond agent
6 from the same bail bond agency when apprehending, arresting, or surrendering
7 defendants to authorities.

8 (b) A temporary licensee may not execute or sign bonds, handle initial
9 premium or any collateral receipts, deliver bonds to appropriate authorities, or
10 operate an agency or branch agency separate from the location of the
11 supervising bail bond agent, managing general agent, or insurer by whom the
12 licensee is employed. Nothing provided in this section may prevent a temporary
13 licensee from accepting on behalf of his or her supervising bail bond agent
14 subsequent monies as part of a payment plan of the premium for a bond
15 executed by his or her supervising bail bond agent.

16 (9) The department shall not issue a temporary bail bond agent's license to any
17 individual who has held such a temporary license in this state within 2 years
18 after the expiration or termination of such temporary bail bond agent's license.

1 (10) The department may adopt rules pursuant to ss. 120.536(1) and 120.54 to
2 administer, define and enforce the provisions of this section.

3 **648.36 Bail bond agent's records.--**

4 *No changes*

5 **648.365 Statistical reporting requirements; penalty for failure to comply.--**

6 *No changes*

7 **648.37 Reporting of bail bond judgments**

8 Every limited surety agent must file with each insurer he/she is appointed to
9 represent a sworn affidavit together with a list of every outstanding judgment,
10 including the civil and criminal case number, the total amount of the judgment
11 due, the name of the court in which such judgment is recorded and the name of
12 each agency or firm employed or contracted by the bail bond agent. Each
13 limited surety agent shall file this affidavit for judgments entered from January
14 1 through December 31 of the preceding year. Each limited surety agent shall
15 file this no later than February 1 of the following year and provide copies to his
16 or her managing general agent. Failure to file this report is grounds for the
17 insurer to immediately terminate the limited surety agent's appointment to
18 represent that company.

1 The limited surety agent, the bail bond agency, the managing general agent
2 and the insurer must provide a complete copy of this report upon request of
3 the office or the department.¹⁰

4 **648.38 Licensure examination for bail bond agents; time; place; fees; scope.—**

5 *No changes*

6 **648.381 Reexamination.--**

7 *No changes*

8 **648.382 Appointment of bail bond agents and temporary bail bond agents;**
9 **effective date of appointment.--**

10 (1) Each insurer appointing a bail bond agent and each insurer, managing
11 general agent, or bail bond agent appointing a temporary bail bond agent in
12 this state must file the appointment with the department and, at the same time,
13 pay the applicable appointment fees and taxes. A person appointed under this
14 section must hold a valid bail bond agent's or temporary bail bond agent's
15 license.

¹⁰ FSA request

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

4 (a) A certified statement or affidavit to the department stating what
5 investigation has been made concerning the proposed appointee and the
6 proposed appointee's background and the appointing person's opinion to
7 the best of his or her knowledge and belief as to the moral character and
8 reputation of the proposed appointee. In lieu of such certified statement or
9 affidavit, by authorizing the effectuation of an appointment for a licensee,
10 the appointing entity certifies to the department that such investigation has
11 been made and that the results of the investigation and the appointing
12 person's opinion is that the proposed appointee is a person of good moral
13 character and reputation and is fit to engage in the bail bond business;

14 (b) An affidavit under oath on a form prescribed by the department, signed
15 by the proposed appointee, stating that premiums are not owed to any
16 insurer and that the appointee will discharge all outstanding forfeitures and
17 judgments on bonds previously written. If the appointee does not satisfy or
18 discharge such forfeitures or judgments, the former insurer shall file a

1 notice, with supporting documents, with the appointing insurer, the former
2 agent, and the department, stating under oath that the licensee has failed to
3 timely satisfy forfeitures and judgments on bonds written and that the
4 insurer has satisfied the forfeiture or judgment from its own funds. Upon
5 receipt of such notification and supporting documents, the appointing
6 insurer shall immediately cancel the licensee's appointment. The licensee
7 may be reappointed only upon certification by the former insurer that all
8 forfeitures and judgments on bonds written by the licensee have been
9 discharged. The appointing insurer or former agent may, within 10 days, file
10 a petition with the department seeking relief from this paragraph. Filing of
11 the petition stays the duty of the appointing insurer to cancel the
12 appointment until the department grants or denies the petition; and
13 (c) Any other information that the department reasonably requires
14 concerning the proposed appointee.

15 (3) By authorizing the effectuation of an appointment for a licensee, the
16 appointing insurer certifies to the department that the insurer will be bound by
17 the acts of the bail bond agent acting within the scope of his or her
18 appointment, and, in the case of a temporary bail bond agent, the appointing

1 insurer, managing general agent, or bail bond agent, as the case may be, must
2 certify to the department that he or she will supervise the temporary bail bond
3 agent's activities.

4 (4) Each appointing insurer, managing general agent, or bail bond agent must
5 advise the department in writing within 5 days after receiving notice or learning
6 that an appointee has been arrested for, pled guilty or nolo contendere to, or
7 been found guilty of, a felony or other offense punishable by imprisonment of 1
8 year or more under the law of any jurisdiction, whether judgment was entered
9 or withheld by the court.

10 (5) A list of current appointments must be submitted to the department each
11 month but in no case later than 45 days after the date of appointment. All
12 appointments are effective as of the date indicated on the appointment form.

13 (6) Failure to notify the department within ~~the required time period~~ 30 days of
14 the appointment shall result in the appointing entity being assessed a
15 delinquent fee of not less than \$250 1,000 for each month the agent
16 represented the insurer without being properly appointed. Delinquent fees shall
17 be paid by the appointing entity and shall not be charged to the appointee.

1 **648.383 Renewal, continuation, reinstatement, and termination of**
2 **appointment; bail bond agents.-**

3 *No changes*

4 **648.384 Effect of expiration of appointment; bail bond agents.--**

5 *No changes*

6 **648.385 Continuing education required; application; exceptions;**
7 **requirements; penalties.--**

8 (1) The purpose of this section is to establish requirements and standards for
9 continuing education courses for persons authorized to write bail bonds in this
10 state.

11 (2)(a) Each person subject to the provisions of this chapter must complete a
12 minimum of 14 hours of continuing education courses every 2 years in
13 classroom¹¹ courses approved by the department. Compliance with continuing
14 education requirements is a condition precedent to the issuance, continuation,
15 or renewal of any appointment subject to the provisions of this chapter.

¹¹ D Amato request

1 (b) A person teaching any approved course of instruction or lecturing at any
2 approved seminar and attending the entire course or seminar shall qualify for
3 the same number of classroom hours as would be granted to a person taking
4 and successfully completing such course, seminar, or program. Credit shall be
5 limited to the number of hours actually taught unless a person attends the
6 entire course or seminar.

7 (c) For good cause shown, the department may grant an extension of time
8 during which the requirements imposed by this section may be completed, but
9 such extension of time may not exceed 1 year.

10 (3)(a) Any bail-related course developed or sponsored by any authorized
11 insurer or recognized bail bond agents' association, ~~or any independent study~~
12 ~~program of instruction,~~⁺² subject to approval by the department, qualifies for
13 the equivalency of the number of classroom hours assigned to such course by
14 the department. However, unless otherwise provided in this section, continuing
15 education credit may not be credited toward meeting the requirements of this
16 section unless the course is provided by classroom instruction ~~or~~ and results in
17 a monitored examination.

¹² FSA request

1 (b) Each person or entity sponsoring a course for continuing education credit
2 must furnish, within 30 days after completion of the course, in a form
3 satisfactory to the department or its designee, a written and certified roster
4 showing the name and license number of all persons successfully completing
5 such course and requesting credit, accompanied by the required fee. The
6 department shall refuse to issue, continue, or renew the appointment of any
7 bail bond agent who has not had the continuing education requirements
8 certified unless the agent has been granted an extension by the department.

9 **648.386 Qualifications for prelicensing and continuing education schools and**
10 **instructors.--**

11 (1) SCHOOLS AND CURRICULUM FOR PRELICENSING SCHOOLS.--In order to be
12 considered for approval and certification as an approved limited surety agent
13 and professional bail bond agent prelicensing school, such entity must:

14 (a)1. Offer a minimum of two 120-hour classroom-instruction basic
15 certification courses in the criminal justice system per calendar year unless a
16 reduced number of course offerings per calendar year is warranted in
17 accordance with rules promulgated by the department; or

- 1 2. Offer a department–approved correspondence course pursuant to
2 department rules.
- 3 (b) Submit a prelicensing course curriculum to the department for approval.
- 4 (c) If applicable, offer prelicensing classes which are taught by instructors
5 approved by the department.
- 6 (2) SCHOOLS AND CURRICULUM FOR CONTINUING EDUCATION SCHOOLS.--In
7 order to be considered for approval and certification as an approved limited
8 surety agent and professional bail bond agent continuing education school,
9 such entity must:
- 10 (a) Provide a minimum of three continuing education ~~classes~~ classroom courses
11 per calendar year.
- 12 (b) Submit a course curriculum and complete copy of all documents and
13 materials to be used in the course to the department for approval.
- 14 (c) Offer continuing education classes which are comprised of a minimum of 2
15 hours of approved coursework and are taught by an approved supervising
16 instructor or guest lecturer approved by the entity or the supervising instructor.

1 (d) The department may deny credit to any participant in a class that is not
2 approved, or that does not use training materials, books and other related
3 documents that were approved by the department at least 30 days prior to the
4 class being taught. This approval should be shown in the materials being
5 provided to the participants.

6 (3) GEOGRAPHIC REQUIREMENTS.--Any provider approved under this section
7 by the department to offer prelicensing courses or continuing education
8 courses shall be required to offer such courses in at least two geographic areas
9 of the state until such time that the department determines that there are
10 adequate providers statewide to provide these courses to applicants and
11 licensees.

12 (4) INSTRUCTOR'S DUTIES AND QUALIFICATIONS.--

13 (a) Each course must have a supervising instructor who is approved by the
14 department. The supervising instructor shall be present at all classes. The
15 supervising instructor is responsible for:

16 1. All course instructors.

17 2. All guest lecturers.

18 3. The course outlines and curriculum.

1 4. Certification of each attending limited surety agent or professional bail bond
2 agent.

3 5. Completion of all required forms.

4 6. Assuring that the course is approved.

5 Either the entity or the supervising instructor may approve guest lecturers.

6 (b) In order to obtain department approval as a supervising instructor, the
7 following qualifications must be met:

8 1. During the past 15 years, the person must have had at least 10 years'
9 experience as a manager or officer of a managing general agent in this state as
10 prescribed in s. 648.388;

11 2. During the past 15 years, the person must have had at least 10 years'
12 experience as a manager or officer of an insurance company authorized to and
13 actively engaged in underwriting bail in this state, provided there is a showing
14 that the manager's or officer's experience is directly related to the bail bond
15 industry; or

16 3. The person has been a licensed bail bond agent in this state for at least 10
17 years.

1 (c) In order to obtain department approval as an instructor or guest lecturer,
2 the person must be qualified by education or experience in the specific area of
3 instruction as prescribed by department rules.

4 (d) A person teaching any approved course of instruction or lecturing at any
5 approved seminar and attending the entire course or seminar shall qualify for
6 the same number of classroom hours as would be granted to a person taking
7 and successfully completing such course, seminar, or program. Credit shall be
8 limited to the number of hours actually taught unless a person attends the
9 entire course or seminar.

10 (e) The department shall adopt rules necessary to carry out the duties
11 conferred upon it under this section.

12

13 **648.387 ~~Primary bail bond agents~~ Agent in charge; duties.--**

14 (1) The owner or operator of a bail bond agency shall designate an primary bail
15 bond agent in charge who has been licensed and appointed for three
16 consecutive years¹³ for each location, and shall file with the department the
17 name and license number of the person and the address of the location on a

¹³ FSA request: who has been licensed and appointed for three consecutive years

1 form approved by the department. The designation of the ~~primary bail bond~~
2 agent in charge may be changed if the department is notified immediately.
3 Failure to notify the department within 10 working days after such change is
4 grounds for disciplinary action pursuant to s. 648.45.

5 (2) The ~~primary bail bond~~ agent in charge is responsible for the overall
6 operation and management of a bail bond agency location, whose
7 responsibilities may include, without limitations, hiring and supervising of all
8 individuals within the location, whether they deal with the public in the
9 solicitation or negotiation of bail bond contracts or in the collection or
10 accounting of moneys. A person may be designated as ~~primary bail bond~~ agent
11 in charge for only one agency¹⁴ location.

12 (3) The department may suspend or revoke the license of the owner, operator,
13 and ~~primary bail bond~~ agent in charge if a bail bond agency employs, contracts
14 with, or uses the services of a person who has had a license denied or whose
15 license is currently suspended or revoked. However, a person who has been
16 denied a license for failure to pass a required examination may be employed to
17 perform clerical or administrative functions for which licensure is not required.

¹⁴ FSA request

1 (a) The bail bond agency or bail bond agent in charge may require employees
2 and applicants for employment to submit to a background check to meet the
3 requirements of this section. Such background check must include a criminal
4 history report on the employee or applicant and may be repeated annually on
5 each person associated with the bail bond agency.

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

12 (5) A bail bond agency location may not conduct surety business unless an
13 ~~primary bail bond agent in charge~~ agent in charge is designated at all times. The failure to
14 designate an ~~primary~~ agent in charge on a form prescribed by the department,
15 within 10 working days after an agency's inception or a change of ~~primary~~
16 agent in charge, is a violation of this chapter, punishable as provided in s.
17 648.45.

1 (6) The department shall adopt rules pursuant to ss. 120.536(1) and 120.54 to
2 administer, define and enforce the provisions of this section.

3 **648.388 Insurer must appoint managing general agent.—**

4 Any insurer regularly engaged in the execution of bail bonds in this state shall
5 have a managing general agent in this state to supervise its agents. Upon the
6 appointment of a managing general agent, the insurer shall file with the
7 department an affidavit under oath, executed by the appointee, certifying that
8 the appointee does not owe any unpaid premiums to any insurer and does not
9 have any unpaid judgments or forfeitures in any state. A managing general
10 agent shall maintain an office in this state and maintain all records relating to
11 bonds issued in this state. Such Records shall be available for inspection by the
12 insurer, the office or the department upon request at any time.

13 (a) Prior to being appointed, the managing general agent shall file an affidavit
14 under oath on a form prescribed by the department, signed by the proposed
15 managing general agent appointee, stating that premiums are not owed to any
16 insurer and that the appointee will discharge all outstanding forfeitures and
17 judgments on bonds previously written by them or their sub-agents. If the
18 appointee does not satisfy or discharge such forfeitures or judgments, the

1 former insurer shall file a notice, with supporting documents, with the
2 appointing insurer, the former managing general agent, and the department,
3 stating under oath that the licensee has failed to timely satisfy forfeitures and
4 judgments on bonds written and that the insurer has satisfied the forfeiture or
5 judgment from its own funds. Upon receipt of such notification and supporting
6 documents, the appointing insurer shall immediately cancel the managing
7 general agent's appointment. The managing general agent may be reappointed
8 only upon certification by the former insurer that all forfeitures and judgments
9 on bonds written by the managing general agent and its sub-agents have been
10 discharged. The appointing insurer or former managing general agent may,
11 within 10 days, file a petition with the department seeking relief from this
12 paragraph. Filing of the petition stays the duty of the appointing insurer to
13 cancel the appointment until the department grants or denies the petition; and
14 (b) Any other information that the department reasonably requires concerning
15 the proposed appointee.
16 (c) By authorizing the effectuation of an appointment for a managing general
17 agent licensee, the appointing insurer certifies to the department that the
18 insurer will be bound by the acts of the managing general agent acting within

1 the scope of his or her appointment. The appointing insurer must certify to the
2 department that he or she will supervise the managing general agent's
3 activities.

4 (d) Each appointing insurer must advise the department in writing within 5
5 days after receiving notice or learning that an appointee has been arrested for,
6 pled guilty or nolo contendere to, or been found guilty of, a felony or other
7 offense punishable by imprisonment of 1 year or more under the law of any
8 jurisdiction, whether judgment was entered or withheld by the court.¹⁵

9 **648.39 Termination of appointment of managing general agents, bail bond**
10 **agents, and temporary bail bond agents.--**

11 (1) An insurer who terminates the appointment of a managing general agent,
12 bail bond agent, or temporary bail bond agent shall, within 10 days after such
13 termination, file written notice thereof with the department together with a
14 statement that it has given or mailed notice to the terminated agent. Such
15 notice filed with the department must state the reasons, if any, for such
16 termination. Information so furnished the department is confidential and
17 exempt from the provisions of s. 119.07(1).

¹⁵ FSA request

1 (2) Each insurer shall, within 5 days after terminating the appointment of any
2 managing general agent, bail bond agent, or temporary bail bond agent, give
3 written notice thereof to each clerk of the circuit court and sheriff with whom
4 such person is registered.

5 (3) An insurer that terminates the appointment of a managing general agent,
6 bail bond agent, or temporary bail bond agent may authorize such person to
7 continue to attempt the arrest and surrender of a defendant for whom a surety
8 bond had been written by the bail bond agent prior to termination and to seek
9 discharge of forfeitures and judgments as provided in chapter 903.

10 (4) Bail bond agents and managing general agents that have had their
11 appointment terminated by an insurer shall be accountable to that insurer until
12 all liability for bonds written with that insurer are discharged or otherwise
13 vacated.

14 **648.40 Application for appointment of professional bail bond agents;**
15 **termination.—**

16 *No changes*

17 **648.41 Termination of appointment of temporary bail bond agents.--**

18 *No changes*

1 **648.415 Rules for appointments and terminations of bail bond agents**

2 The department shall adopt rules pursuant to ss. 120.536(1) and 120.54 to
3 administer, define and enforce the appointment and termination of
4 appointment of bail bond agents, bail bond agencies and managing general
5 agencies.

6 **648.42 Registration of bail bond agents.--**

7 A bail bond agent may not become a surety on an undertaking unless he or she
8 has registered in the office of the sheriff and with the clerk of the circuit court
9 in the county in which the bail bond agent resides. The bail bond agent and
10 agency may register in a like manner in any other county, and any bail bond
11 agent and bail bond agency shall file a certified copy of his or her appointment
12 by power of attorney from each insurer which he or she represents as a bail
13 bond agent with each of such officers. Registration and filing of a certified copy
14 of renewed power of attorney shall be performed by April 1 of each odd-
15 numbered year, and the form must include the effective date of the registration.

16 The clerk of the circuit court and the sheriff shall not permit the registration of
17 a bail bond agent or bail bond agency unless such bail bond agent or bail bond
18 agency is currently licensed and appointed by the department. Nothing in this

1 section shall prevent the registration of a temporary licensee at the jail for the
2 purposes of enabling the licensee to perform the duties under such license as
3 set forth in this chapter.

4 **648.421 Notice of change of name, address or telephone number.--**

5 Each licensee under this chapter shall notify in writing the department, insurer,
6 managing general agent, and the clerk of each court in which the licensee is
7 registered within 10 working days after a change in the licensee's principal
8 business address or telephone number. The licensee shall also notify the
9 department within 10 working days after a change of the name, address, or
10 telephone number of each bail bond agency or firm for which he or she writes
11 bonds and any change in the licensee's name, home address, email address or
12 telephone number.

13 A bail bond agent may electronically submit written changes through the
14 department's website at www.myfloridacfo.com.

15 The department may adopt rules pursuant to ss. 120.536(1) and 120.54 to
16 administer, define and enforce the provisions of this section.

17

1 **648.43 Power of attorney; to be approved by ~~department~~the office; filing of**
2 **copies; notification of transfer bond.--**

3 (1) Every insurer engaged in the writing of bail bonds through bail bond agents
4 in this state shall submit and have approved by the ~~department~~ office a sample
5 power of attorney, which will be the only form of power of attorney the insurer
6 will issue to bail bond agents in this state.

7 (2) Every professional bail bond agent who authorizes a licensed professional
8 bail bond agent directly employed and appointed by him or her to sign his or
9 her name to bonds must file a copy of the power of attorney given to the
10 appointed professional bail bond agent with the sheriff and the clerk of the
11 circuit court in the county in which he or she resides and with the department.
12 Such power of attorney shall remain in full force and effect until written notice
13 revoking the power of attorney has been received by the above-named officials.

14 (3) Every bail bond agent who executes or countersigns a transfer bond shall
15 indicate in writing on the bond the name and address of the referring bail bond
16 agent. The license number of a Florida bail bond agent requesting a transfer
17 bond must be printed legibly on each copy of the transfer bond.

1 (4) The department and the office may adopt rules pursuant to ss. 120.536(1)
2 and 120.54 to administer, define and enforce the provisions of this section.

3
4 **648.44 Prohibitions; penalty.--**

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

6 (a) Suggest or advise the employment of, or name for employment, any
7 particular attorney to represent his or her principal.

8 (b) Directly or indirectly solicit business in or on the property or grounds
9 of a jail, prison, or other place where prisoners are confined or in or on
10 the property or grounds of any court. The term "solicitation" includes the
11 distribution of business cards, print advertising, or other written or oral
12 information directed to prisoners or potential indemnitors, unless a
13 request is initiated by the prisoner or a potential indemnitor. Permissible
14 print advertising in the jail is strictly limited to a listing in a telephone
15 directory and the posting of the bail bond agent's or agency's name,
16 address, and telephone number in a designated location within the jail.

17 (c) Initiate in-person or by telephone any solicitation after 9:00 p.m. or
18 before 8:00 a.m., ~~in the case of domestic violence cases, at the residence~~

1 ~~of the detainee or the detainee's family. Any solicitation not prohibited by~~
2 ~~this chapter must comply with the telephone solicitation requirements in~~
3 ~~ss. 501.059(2) and (4), 501.613, and 501.616(6).~~

4 (d) Wear or display any identification other than the department issued
5 or approved license or approved department identification, which
6 includes a citation of the licensee's arrest powers, in or on the property or
7 grounds of a jail, prison, or other place where prisoners are confined or
8 in or on the property or grounds of any court.

9 (e) Pay a fee or rebate or give or promise anything of value to a jailer,
10 police officer, peace officer, or committing trial court judge or any other
11 person who has power to arrest or to hold in custody or to any public
12 official or public employee in order to secure a settlement, compromise,
13 remission, or reduction of the amount of any bail bond or estreatment
14 thereof.

15 (f) Pay a fee or rebate or give anything of value to an attorney in a bail
16 bond matter, except in defense of any action on a bond.

17 (g) Pay a fee or rebate or give or promise anything of value to the
18 principal or anyone in his or her behalf.

1 (h) Participate in the capacity of an attorney at a trial or hearing of one
2 on whose bond he or she is surety.

3 (i) Loiter in or about a jail, courthouse, or where prisoners are confined.

4 (j) Accept anything of value from a principal for providing a bail bond
5 except the premium and transfer fee authorized by the office, except that
6 the bail bond agent may accept collateral security or other indemnity
7 from the principal or another person in accordance with the provisions of
8 s. 648.442, together with documentary stamp taxes, if applicable. No
9 fees, expenses, or charges of any kind shall be permitted to be deducted
10 from the collateral held or any return premium due, except as authorized
11 by this chapter or rule of the department or commission. A bail bond
12 agent may, upon written agreement with another party, receive a fee or
13 compensation for returning to custody an individual who has fled the
14 jurisdiction of the court or caused the forfeiture of a bond.

15 (k) Write more than one power of attorney per charge on a bond, except
16 in the case of a cosurety, unless the power of attorney prohibits a
17 cosurety.

18 (l) Execute a bond in this state on his or her own behalf.

1 (m) Execute a bond in this state if a judgment has been entered on a
2 bond executed by the bail bond agent, which has remained unpaid for 35
3 days, unless the full amount of the judgment is deposited with the clerk
4 in accordance with s. 903.27(5).

5 (n) Make a statement or representation to a court, unless such statement
6 or representation is under oath. Such statement or representation may
7 not be false, misleading, or deceptive.

8 (o) Make any Attempt to collect, through threat or coercion, while
9 attempting to collect amounts due for the payment of any indebtedness,
10 or when dealing with any other matter related to the issuance of a bail
11 bond in violation of s. 559.72.

12 (p) Conduct bail bond business with any person, other than the
13 defendant, on the grounds of the jail or courthouse for the purpose of
14 executing a bond.

15 (q) Pay a fee or rebate or give or promise anything of value to an inmate
16 or anyone in his or her behalf in return for the referral of bail bond
17 business.

1 (r) A limited surety agent, a bail bond agency or a managing general
2 agent shall not act as a professional bail bond agent until obtaining a
3 license as a professional bail bond agent.¹⁶

4 (s) Charge a travel fee or other such charge, for taking the bail bond and
5 posting it at the jail in any county when the writing agent and agency are
6 the same as the posting agent or agency.

7 (2) The following persons or classes shall not be bail bond agents, temporary
8 bail bond agents, or employees of a bail bond agent or a bail bond business
9 and shall not directly or indirectly receive any benefits from the execution of
10 any bail bond:

11 (a) Jailers or persons employed in any jail.

12 (b) Police officers or employees of any police department or law
13 enforcement agency.

14 (c) Committing trial court judges, employees of a court, or employees of
15 the clerk of any court.

16 (d) Sheriffs and deputy sheriffs or employees of any sheriff's department.

17 (e) Attorneys.

¹⁶ FSA request

1 (f) Persons having the power to arrest or persons who have authority
2 over or control of federal, state, county, or municipal prisoners.

3 (3) A bail bond agent may not sign or countersign in blank any bond, give a
4 power of attorney to, or otherwise authorize, anyone to countersign his or her
5 name to bonds unless the person so authorized is a licensed and appointed bail
6 bond agent directly employed by the bail bond agent giving such power of
7 attorney.

8 (4) A place of business, including a branch office, may not be established,
9 opened, or maintained unless it is under the active full-time charge of a
10 licensed and appointed bail bond agent.

11 (5) Except as between licensed and appointed bail bond agents, a bail bond
12 agent may not divide with others, or share in, any commissions payable on
13 account of any bail bond.

14 (6) (a) No bail bond agency shall advertise as or hold itself out to be a bail
15 bond or surety company.

16 (b) Any misleading or false advertisement₁ or deceptive trade practice₁ is
17 prohibited as provided in part IX of chapter 626.

18 (c) The advertisement of reduced premium rates is prohibited.

1 (d) ~~After October 1, 2002,~~ a A bail bond agency may not use a name that
2 implies a reduced rate of premium.

3 (e) 1. A bail bond agent may not make material misrepresentations or
4 omissions in statements or use advertisements that constitute
5 material misrepresentations of facts, create unjust expectations
6 concerning services, or make improper comparisons.

7 2. Bail bond agents may not own or advertise under firm names
8 that are false, misleading, or deceptive, or use trade names that
9 imply a connection with any government agency.

10 3. A bail bond agent may not ~~use any advertisement or~~ advertise
11 under any name that includes the word "free".

12 4. A bail bond agent may not advertise under a trade name unless
13 the name and address appear on the agent's letterhead or business
14 cards. Such name must be registered with the department.

15 (7) Any permissible advertising by a bail bond agent or agency must include
16 the address of record filed with the department along with the license number
17 of the bail bond agency.

1 (8) (a) A person who has been convicted of or who has pleaded guilty or no
2 contest to a felony or a crime involving moral turpitude or a crime
3 punishable by imprisonment of 1 year or more under the law of any state,
4 territory, or country, regardless of whether adjudication of guilt was
5 withheld, may not act in any capacity for a bail bond agency or participate
6 as a director, officer, manager, agent, contractor, or employee of any bail
7 bond agency or office thereof or exercise direct or indirect control in any
8 manner in such agency or office or own shares in any closely held
9 corporation which has any interest in any bail bond business. Such
10 restrictions on engaging in the bail bond business shall continue to apply
11 during a pending appeal.

12 (b) Any person who violates the provisions of paragraph (a) or any
13 person who knowingly permits a person who has been convicted of or
14 who has pleaded guilty or no contest to a crime as described in
15 paragraph (a) to engage in the bail bond business as prohibited in
16 paragraph (a) commits a felony of the third degree, punishable as
17 provided in s. 775.082, s. 775.083, or s. 775.084.

1 (c) Any law enforcement agency, state attorney's office, court clerk, or
2 insurer that is aware that a bail bond agent or temporary bail bond agent
3 has been convicted of or who has pleaded guilty or no contest to a crime
4 as described in paragraph (a) shall notify the department of this fact.

5 (d) Upon the filing of an information or indictment against a bail bond
6 agent or temporary bail bond agent, the state attorney or clerk of the
7 circuit court shall immediately furnish the department a certified copy of
8 the information or indictment.

9 (9) (a) Any person who violates any provisions of paragraph (1)(e),
10 paragraph (1)(f), paragraph (1)(g), paragraph (1)(j), ~~or paragraph (1)(n),~~
11 paragraph (1)(q), paragraph (1)(r) or subsection (2) commits a felony of
12 the third degree, punishable as provided in s. 775.082, s. 775.083, or s.
13 775.084.

14 (b) Any person who violates the provisions of paragraph (1)(a), paragraph
15 (1)(b), paragraph (1)(c), paragraph (1)(h), paragraph (1)(k), paragraph
16 (1)(m), paragraph (1)(o), paragraph (1)(p), subsection (3), subsection (4),
17 or subsection (5) commits a misdemeanor of the first degree, punishable
18 as provided in s. 775.082 or s. 775.083.

1 (10) The department may adopt rules pursuant to ss. 120.536(1) and 120.54 to
2 administer, define and enforce the provisions of this section.

3 **648.441 Furnishing supplies to unlicensed bail bond agent prohibited; civil**
4 **liability and penalty.—**

5 *No changes*

6 **648.442 Collateral security.--**

7 (1) Collateral security or other indemnity accepted by a bail bond agent, except
8 a promissory note or an indemnity agreement, shall be returned upon final
9 termination of liability on the bond. Such collateral security or other indemnity
10 required by the bail bond agent must be reasonable in relation to the amount of
11 the bond. Collateral security may not be used by the bail bond agent for
12 personal benefit or gain and must be returned in the same condition as
13 received. A bail bond agent may accept collateral security in excess of \$50,000
14 cash per bond, provided any amount over \$50,000 cash is payable to the
15 insurer in the form of a cashier's check, United States postal money order,
16 certificates of deposit, or wire transfer and is remitted to and held by the
17 insurer. A copy of IRS Form 8300 must be retained as part of the defendant's
18 file if it is otherwise required. A quitclaim deed for property may not be taken

1 as collateral. Other acceptable forms of security or indemnity may consist of the
2 following:

3 (a) A promissory note;

4 (b) An indemnity agreement;

5 (c) A real property mortgage in the name of the insurer;

6 (d) Any Uniform Commercial Code filing; or

7 (e) Any other type of security approved by the department. The

8 department may approve other security only if, after considering the

9 liquidity and other characteristics of the security, it determines that the

10 security is of a type which increases the probability that the defendant

11 will in fact appear in court or increases the probability that the defendant

12 will be subsequently apprehended by the bail bond agent.

13 (2) When a bail bond agent accepts collateral, a written, numbered receipt shall

14 be given, and this receipt shall give in detail a full account of the collateral

15 received. The bail bond agent shall also give copies of documents rendered

16 under subsection (1) to the indemnitor.

1 (3) Collateral security shall be received and held in the insurer's name by the
2 bail bond agent in a fiduciary capacity and, prior to any forfeiture of bail, shall
3 be kept separate and apart from any other funds or assets of such bail bond
4 agent. When collateral security equal to or in excess of \$5,000 cash or its
5 equivalent is received by a bail bond agent, the entire amount shall be
6 immediately forwarded to the insurer. Such collateral security may be placed in
7 an interest-bearing account to accrue to the benefit of the person giving the
8 collateral security, ~~and~~ and The bail bond agent, insurer, or managing general
9 agent may not make any pecuniary gain on the collateral security deposited.
10 Any such account shall be in a depository office of a financial institution located
11 in this state. The insurer shall be liable for all collateral received. If the bail
12 bond agent or managing general agent fails to return the collateral to the
13 indemnitor upon final termination of liability on the bond, the surety shall be
14 liable for the collateral and shall return the actual collateral to the indemnitor
15 or, in the event that the surety cannot locate the collateral, the surety shall pay
16 the indemnitor pursuant to the provisions of this section.

17 (4) When the obligation of the surety on the bond or bonds has been released
18 in writing by the court, or through the application of ss. 648.571(2) or upon

1 expiration of the bond pursuant to ss. 903.31(1), the collateral shall be
2 returned to the rightful owner named in the collateral receipt unless another
3 disposition is provided for by legal assignment of the right to receive the
4 collateral to another person.

5 (5) If a forfeiture occurs, the agent or insurer shall give 10 days' written notice
6 of intent to convert the collateral deposit into cash to satisfy the forfeiture to
7 the indemnitor and principal. Notice shall be sent by certified mail to the last
8 known address of the indemnitor and principal.

9 (6) The bail bond agent or insurer must convert the collateral to cash within a
10 reasonable period of time and return that which is in excess of the face value of
11 the bond minus the actual and reasonable expenses of converting the collateral
12 to cash. In no event shall these expenses exceed 20 percent of the face value of
13 the bond. However, upon motion and proof that the actual, reasonable
14 expenses exceed 20 percent, the court may allow recovery of the full amount of
15 such actual, reasonable expenses. If there is a remission of a forfeiture, which
16 had required the surety to pay the bond to the court, the surety shall pay to the
17 indemnitor the value of any collateral received for the bond, minus any actual
18 expenses and costs permitted herein.

1 (7) No bail bond agent or insurer shall solicit or accept a waiver of any of the
2 provisions of this section or enter into any agreement as to the value of the
3 collateral.

4 (8) Prior to the appointment of a bail bond agent who is currently or was
5 previously appointed by another insurer, the bail bond agent must file with the
6 department a sworn and notarized affidavit, on a form prescribed by the
7 department, stating that:

8 (a) There has been no loss, misappropriation, conversion, or theft of any
9 collateral being held by the agent in trust for any insurer by which the
10 agent is currently or was previously appointed; and

11 (b) All collateral being held in trust by the agent and all records for any
12 insurer by which the agent is currently or was previously appointed are
13 available for immediate audit and inspection by the department, the
14 insurer, or the managing general agent, and will upon demand of the
15 department or insurer be transmitted to the insurer for whom the
16 collateral is being held in trust.

1 (9) The department shall establish by rule the form of the affidavit and the
2 statement identifying the amount and source of the security as specified in s.
3 903.14.

4 (10) An indemnity agreement may not be entered into between a principal and
5 either a surety or any agent of the surety, and an application may not be
6 accepted either by a bail bond agent engaged in the bail bond business or by a
7 surety company for a bail bond in which an indemnity agreement is required
8 between a principal and either a surety or any agent of such surety, unless the
9 indemnity agreement reads as follows: "For good and valuable consideration,
10 the undersigned principal agrees to indemnify and hold harmless the surety
11 company or its agent for all losses not otherwise prohibited by law or by rules
12 of the Department of Financial Services."

13 (11) Any person who violates this section is guilty of a felony of the third
14 degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

15 **648.4425 Notice.—**

16 *No changes*

1 **648.45 Actions against a licensee; suspension or revocation of eligibility to**
2 **hold a license.--**

3 (1) The department shall, upon receipt of an information or indictment,
4 immediately temporarily suspend any license or appointment issued under this
5 chapter when the licensee has been charged with a felony or a crime involving
6 moral turpitude or a crime punishable by imprisonment of 1 year or more under
7 the law of any state, territory, or country. Such suspension shall continue if the
8 licensee has been found guilty of, or has pleaded guilty or no contest to, the
9 crime, whether or not a judgment or conviction has been entered, during a
10 pending appeal. A person may not effect any additional bail bonds after
11 suspension of his or her license or appointment. However, he or she may
12 discharge any liability on bonds effected prior to such suspension.

13 (2) The department shall deny, suspend, revoke, or refuse to renew any license
14 or appointment issued under this chapter or the insurance code, and it shall
15 suspend or revoke the eligibility of any person to hold a license or appointment
16 under this chapter or the insurance code, for any violation of the laws of this
17 state relating to bail or any violation of the insurance code or if the person:

1 (a) Lacks one or more of the qualifications specified in this chapter for a
2 license or appointment.

3 (b) Has made a material misstatement, misrepresentation, or fraud in
4 obtaining a license or appointment, or in attempting to obtain a license
5 or appointment.

6 (c) Has failed to pass any examination required under this chapter.

7 (d) Has willfully used, or intended the use, of the license or appointment
8 to circumvent any of the requirements or prohibitions of this chapter or
9 the insurance code.

10 (e) Has demonstrated lack of fitness or trustworthiness to engage in the
11 bail bond business.

12 (f) Has demonstrated lack of reasonably adequate knowledge and
13 technical competence to engage in the transactions authorized by the
14 license or appointment.

15 (g) Has engaged in fraudulent or dishonest practices in the conduct of
16 business under the license or appointment.

1 (h) Is guilty of misappropriation, conversion, or unlawful withholding of
2 moneys belonging to a surety, a principal, or others and received in the
3 conduct of business under a license.

4 (i) Is guilty of rebating or offering to rebate, or unlawfully dividing or
5 offering to divide, any commission, in the case of a limited surety agent,
6 or premiums, in the case of a professional bail bond agent.

7 (j) Has willfully failed to comply with or willfully violated any proper order
8 or rule of the department or willfully violated any provision of this
9 chapter, ~~or the insurance code,~~ or chapter 903.

10 (k) Has been found guilty of, or has pleaded guilty or no contest to a
11 felony, a crime involving moral turpitude, or a crime punishable by
12 imprisonment of 1 year or more under the law of any state, territory, or
13 country, whether or not a judgment or conviction has been entered.

14 (l) Has demonstrated lack of good faith in carrying out contractual
15 obligations and agreements.

16 (m) Has failed to perform a contractual obligation or agreement with a
17 managing general agent or insurer which results in an unrecovered loss
18 due to nonpayment of a forfeiture or judgment by the licensee.

1 (n) Has failed to return collateral.

2 (o) 1. Has signed and filed a report or record in the capacity of an
3 agent which the licensee knows to be false or misleading;

4 2. Has willfully failed to file a report or record required by state or
5 federal law;

6 3. Has willfully impeded or obstructed such filing; or

7 4. Has induced another person to impede or obstruct such filing.

8 Such reports or records shall include only those that are signed in
9 the capacity of a licensed agent.

10 (p) Has demonstrated a course of conduct or practices which indicate

11 that the licensee is incompetent, negligent, or dishonest or that property
12 or rights of clients cannot safely be entrusted to him or her.

13 (3) The department may deny, suspend, revoke, or refuse to renew any license
14 or appointment issued under this chapter or the insurance code, or it may
15 suspend or revoke the eligibility of any person to hold a license or appointment
16 under this chapter or the insurance code, for any violation of the laws of this
17 state relating to bail or any violation of the insurance code or for any of the
18 following causes:

1 (a) A cause for which issuance of the license or appointment could have
2 been refused had it then existed and been known to the department.

3 (b) Cheating on an examination required for licensure or violating test
4 center rules or examination procedures published orally or in writing at
5 the test site by authorized representatives of the examination program
6 administrator. Communication of test center rules and examination
7 procedures must be clearly established and documented.

8 (c) Violation of any law relating to the business of bail bond insurance, or
9 violation of any provision of the insurance code, or violation of chapter
10 903.

11 (d) Failure or refusal, upon demand, to pay over to any insurer the bail
12 bond agent represents or has represented any money coming into his or
13 her hands which money belongs to the insurer.

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

1 (f) Interfering or attempting to interfere with the administration of
2 justice.

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

8 (5) Grounds for revocation of the license or appointment exist when any
9 licensee is adjudged bankrupt or insolvent.

10 (6) Suspension, revocation, and refusal to renew a license or appointment
11 issued under this chapter is subject to the procedures provided in s. 648.46.

12 (7) The department shall adopt rules pursuant to ss. 120.536(1) and 120.54 to
13 administer, define and enforce the provisions of this section.

14 **648.46 Procedure for disciplinary action against licensees.--**

15 *No changes*

16 **648.48 Witnesses and evidence.--**

17 *No changes*

1 **648.49 Duration of suspension or revocation.--**

2 *No changes*

3 **648.50 Effect of suspension, revocation upon associated licenses and**

4 **licensees.-**

5 *No changes*

6 **648.51 Surrender of license.--**

7 *No changes*

1 **648.52 Administrative fine.--**

2 (1) If, pursuant to the procedure described in s. 648.46, the department finds
3 that one or more causes exist for the suspension of, revocation of, or refusal to
4 renew or continue any license or appointment issued under this chapter, the
5 department may, in its discretion, in lieu of or in addition to such suspension,
6 revocation, or refusal, and except on a second offense, impose upon the
7 licensee an administrative penalty in an amount up to \$25,000 or, if the
8 department has found willful misconduct or willful violation on the part of the
9 licensee, \$250,000. The administrative penalty may, in the discretion of the
10 department, be increased by an amount equal to any commissions or other
11 pecuniary benefits received by or accruing to the credit of the licensee in
12 connection with any transaction related to the grounds for suspension,
13 revocation, or refusal.

14 **648.525 Civil assessment.--**

15 (1) The department may initiate a civil administrative proceeding against a
16 licensee who fails to comply with the solicitation requirements of this chapter.

1 (2) The burden of proof in such proceedings is by a preponderance of the
2 evidence. Upon a finding that a licensee has failed to properly comply, an
3 assessment of \$~~5~~10,000 shall be ordered for each act of improper solicitation
4 which assessment shall be payable within 30 days after the date of the final
5 order.

6 (3) The civil assessment is a civil remedy for conduct that harms the
7 consuming public and that is considered an unfair method of competition, and
8 is not a penalty or administrative fine. Remedies under this section are in
9 addition to any other remedies available at law.

10 **648.53 Probation.--**

11 *No changes*

12 **648.55 All bail bond agents of same agency; licensed by same companies.--**

13 All bail bond agents who are members of the same agency, partnership,
14 corporation, or association shall be appointed to represent the same
15 companies. If any member of such agency, partnership, corporation, or
16 association is licensed and appointed as a professional bail bond agent, all
17 members thereof shall be so licensed and appointed. It is the responsibility of
18 each insurer to require that each bail bond agent in an bail bond agency is

1 appointed to represent that particular insurer. It is the responsibility of the
2 agent in charge to notify the insurers of the identity of the agents in the bail
3 bond agency and to verify that the agents are appointed as required.

4 **648.57 Penalty.--**

5 *No changes*

6 **648.571 Failure to return collateral; penalty.--**

7 (1) A bail bond agent who has taken collateral or an insurer or managing
8 general agent who holds collateral as security for a bail bond shall, upon
9 demand, make a written request for a discharge of the bond to be delivered to
10 the surety or the surety's agent. A copy of the written request for discharge
11 must be given to the indemnitor or the person making the request for the
12 collateral, and a copy must be maintained in the agent's file. If a discharge is
13 provided to the surety or the surety's agent pursuant to chapter 903, the
14 collateral shall be returned to the indemnitor within ~~21~~7 days after the
15 discharge is provided.

16 (2) Upon demand, following the written request for discharge and upon
17 diligent inquiry by the surety or surety's agent to determine whether the bond
18 has been discharged, the failure of the court to provide a written discharge to

1 the surety or surety's agent pursuant to chapter 903 within 7 days automatically
2 cancels the bond, and the collateral shall be returned to the indemnitor within
3 ~~21~~ 14 days after the written request for discharge.

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

7 (b) 1. The bail bond agent may charge the credit card fee imposed in
8 connection with the use of the credit card for payment of collateral
9 if the fee is clearly shown on the collateral receipt and is
10 acknowledged by the person tendering the credit card.

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

14 (c) Allowable expenses incurred in apprehending a defendant because of
15 a bond forfeiture or judgment under s. 903.29 may be deducted if such
16 expenses are accounted for. The failure to return collateral under these
17 terms is punishable as follows:

- 1 1. If the collateral is of a value less than \$100, as provided in s.
2 775.082(4)(a).
- 3 2. If the collateral is of a value of \$100 or more, as provided in s.
4 775.082(3)(d).
- 5 3. If the collateral is of a value of \$1,500 or more, as provided in s.
6 775.082(3)(c).
- 7 4. If the collateral is of a value of \$10,000 or more, as provided in s.
8 775.082(3)(b).

9 (4) In addition to the criminal penalties and any other penalties provided in this
10 chapter, the department shall impose against any person violating this section
11 an administrative fine of ~~five~~ten times the dollar amount of the collateral.

12 **648.58 Injunctive proceedings.--**

13 *No changes*

14 **903.27 Forfeiture to judgment.--**

15 (1) If the forfeiture is not paid or discharged by order of a court of competent
16 jurisdiction within 60 days and the bond is secured other than by money and
17 bonds authorized in s. 903.16, the clerk of the circuit court for the county

1 where the order was made shall enter a judgment against the surety for the
2 amount of the penalty and issue execution. However, in any case in which the
3 bond forfeiture has been discharged by the court of competent jurisdiction
4 conditioned upon the payment by the surety of certain costs or fees as allowed
5 by statute, the amount for which judgment may be entered may not exceed the
6 amount of the unpaid fees or costs upon which the discharge had been
7 conditioned. Judgment for the full amount of the forfeiture shall not be entered
8 if payment of a lesser amount will satisfy the conditions to discharge the
9 forfeiture. Within 10 days, the clerk shall furnish the ~~Department of Financial~~
10 ~~Services and the~~ Office of Insurance Regulation of the Financial Services
11 Commission with a certified copy of the judgment docket and shall furnish the
12 surety company at its home office a copy of the judgment, which shall include
13 the power of attorney number of the bond and the name of the executing
14 agent. If the judgment is not paid within 35 days, the clerk shall furnish the
15 ~~Department of Financial Services,~~ the Office of Insurance Regulation, and the
16 sheriff of the county in which the bond was executed, or the official responsible
17 for operation of the county jail, if other than the sheriff, two copies of the
18 judgment and a certificate stating that the judgment remains unsatisfied. When
19 and if the judgment is properly paid or an order to vacate the judgment has

1 been entered by a court of competent jurisdiction, the clerk shall immediately
2 notify the sheriff, or the official responsible for the operation of the county jail,
3 if other than the sheriff, and ~~the Department of Financial Services and the Office~~
4 of Insurance Regulation, if the ~~department and~~ office had been previously
5 notified of nonpayment, of such payment or order to vacate the judgment. The
6 clerk shall also immediately prepare and record in the public records a
7 satisfaction of the judgment or record the order to vacate judgment. If the
8 defendant is returned to the county of jurisdiction of the court, whenever a
9 motion to set aside the judgment is filed, the operation of this section is tolled
10 until the court makes a disposition of the motion.

11 (2) A certificate signed by the clerk of the court or her or his designee,
12 certifying that the notice required in subsection (1) was mailed on a specified
13 date, and accompanied by a copy of the required notice constitutes sufficient
14 proof that such mailing was properly accomplished as indicated therein. If such
15 mailing was properly accomplished as evidenced by such certificate, the failure
16 of a company to receive a copy of the judgment as prescribed in subsection (1)
17 does not constitute a defense to the forfeiture and is not a ground for the
18 discharge, remission, reduction, set-aside, or continuance of such forfeiture.

1 (3) Surety bail bonds may not be executed by a bail bond agent against whom
2 a judgment has been entered which has remained unpaid for 35 days and may
3 not be executed for a company against whom a judgment has been entered
4 which has remained unpaid for 50 days. No sheriff or other official who is
5 empowered to accept or approve surety bail bonds shall accept or approve such
6 a bond executed by such a bail bond agent or executed for such a company
7 until such judgment has been paid.

8 (4) After notice of judgment against the surety given by the clerk of the circuit
9 court, the surety or bail bond agent shall, within 35 days of the entry of
10 judgment, submit to the clerk of the circuit court an amount equal to the
11 judgment, unless the judgment has been set aside by the court within 35 days
12 of the entry of judgment. If a motion to set aside the judgment has been filed
13 pursuant to subsection (5), the amount submitted shall be held in escrow until
14 such time as the court has disposed of the motion. The failure to comply with
15 the provisions of this subsection constitutes a failure to pay the judgment.

16 (5) After notice of judgment against the surety given by the clerk of the circuit
17 court, the surety or bail bond agent may within 35 days file a motion to set
18 aside the judgment or to stay the judgment. It shall be a condition of any such

1 motion and of any order to stay the judgment that the surety pay the amount of
2 the judgment to the clerk, which amount shall be held in escrow until such time
3 as the court has disposed of the motion to set aside the judgment. The filing of
4 such a motion, when accompanied by the required escrow deposit, shall act as
5 an automatic stay of further proceedings, including execution, until the motion
6 has been heard and a decision rendered by the court.

7 (6) The failure of a state attorney to file, or of the clerk of the circuit court to
8 make, a certified copy of the order of forfeiture as required by law applicable
9 prior to July 1, 1982, shall not invalidate any judgment entered by the clerk
10 prior to June 12, 1981.