

STATE OF NEW YORK

8144

IN SENATE

April 6, 2018

Introduced by Sen. SEWARD -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law, in relation to licensing of bail bond agents

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subsections (c), (g), (h), (j) and (m) of section 6802 of
2 the insurance law, subsections (c), (h) and (m) as amended by chapter
3 181 of the laws of 2012, subsection (g) as amended by chapter 164 of the
4 laws of 2003, are amended and a new subsection (g-1) is added to read as
5 follows:

6 (c) The superintendent [~~may, in the superintendent's discretion,~~
7 shall issue to any person, firm or corporation a license to act as an
8 agent of an authorized insurer or charitable bail organization, in
9 soliciting, negotiating or effectuating any such deposit or bail bond by
10 such insurer or any such deposit by such charitable bail organization,
11 if such person meets the requirements for licensure pursuant to this
12 section.

13 (g) Every applicant for a license hereunder shall file with the super-
14 intendent written evidence by those who know his character and reputa-
15 tion and by such other proof as the superintendent may require, [~~includ-~~
16 ~~ing his fingerprints,~~] that he is a person of good character and
17 reputation and has never been convicted of any offense involving moral
18 turpitude or of any crime. If such applicant is a firm or corporation
19 such proof must be made with respect to every member, shareholder, offi-
20 cer and director of such firm or corporation. Every applicant for
21 licensure and for renewal of a license shall submit his or her finger-
22 prints to the superintendent. Such fingerprints shall be submitted to
23 the division of criminal justice services for a state criminal history
24 record check, as defined in subdivision one of section three thousand
25 thirty-five of the education law, and may be submitted to the federal
26 bureau of investigation for a national criminal history record check.

27 (g-1) Every applicant shall have successfully have completed a twen-
28 ty-four hour pre-licensing course of classroom instruction. Such course

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[~~-~~] is old law to be omitted.

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1 shall include information specifying: the requirements for licensure;
2 relevant state laws concerning bail bondsmen including insurance law;
3 criminal procedure law and general business law; bond posting procedures
4 in the various counties within the state; requirements for undertaking
5 an affidavit; release orders; bond fees and related costs and expenses;
6 elements of bail contracts; legal requirements for operating a bail bond
7 agency; court practices and procedures; statutes relating to forfei-
8 tures; statutes relating to bail enforcement; safety procedures and
9 recommended practices for enforcement; and current rules and regulations
10 of the department of financial services regarding bail agents.

11 (h) In order to determine the competence of each applicant for a
12 license or a sublicense, the superintendent shall require every appli-
13 cant to [~~pass to the satisfaction of the superintendent~~] achieve a score
14 of at least seventy-five percent on a written examination to be prepared
15 by the superintendent and appropriate to the doing of a bail business.
16 If the applicant or any proposed sublicensee intends to maintain an
17 office or solicit, negotiate, effectuate or deposit bail on behalf of
18 another in any city containing a population of more than one hundred
19 seventy-five thousand, such written examination may inquire into the
20 applicant's knowledge of the pertinent provisions of the criminal proce-
21 dure law and the pertinent rules and practices of the courts and
22 district attorneys' offices within the area of the applicant's proposed
23 operations. Such examination shall be held at such times and places as
24 the superintendent shall determine.

25 (j) Every applicant for any such license shall file with the super-
26 intendent, at the time of application, a qualifying bond, approved by
27 the attorney general as to form and by the superintendent as to suffi-
28 ciency, in a penalty of five thousand dollars, conditioned upon the
29 faithful performance of the duties of such licensee. No such qualifying
30 bond shall be subject to termination or cancellation by either party in
31 less than sixty days after the giving of written notice to the other
32 party and to the superintendent. A termination or cancellation shall not
33 affect the liability of the surety or sureties on such bond incurred
34 prior to the effective date of such termination or cancellation. If
35 during the term of such bond such licensee shall be guilty of fraudulent
36 or dishonest conduct or other misconduct or malfeasance in his dealings
37 with any court or magistrate or with any person or corporation in
38 connection with any deposit or bail bond, the attorney general may main-
39 tain an action on such qualifying bond in the name of the people of this
40 state and either recover the full amount of the penalty or recover for
41 the use and benefit of the person or persons aggrieved, the amount of
42 loss or injury sustained by such person or persons by reason of such
43 misconduct. No such recovery or recoveries shall exceed in the aggregate
44 five thousand dollars, exclusive of interest and costs.

45 (m) Every license issued to an officer, employee, or agent of an
46 insurer or charitable bail organization doing a bail business pursuant
47 to this section shall be for a term expiring on the thirty-first day of
48 December of even numbered years and may be renewed for the ensuing two
49 calendar years upon the filing of a renewal application and the
50 completion of twelve hours of instruction consisting of courses intended
51 to update or reinforce the materials and information presented in
52 accordance with the provisions of subsection (q-1) of this section. The
53 superintendent may refuse to issue any such license if in the super-
54 intendent's judgment such refusal will best promote the interests of the
55 people of this state. Every such licensee and sublicensee shall file an
56 information statement on or before the thirty-first day of December of

1 each even numbered year, the form and subject matter of which may be
2 prescribed by the superintendent.
3 § 2. This act shall take effect on the ninetieth day after it shall
4 have become a law and shall apply to licenses issued and renewed on and
5 after such date.