STATE OF NEW YORK

3642

2019-2020 Regular Sessions

IN SENATE

February 11, 2019

Introduced by Sens. BRESLIN, 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:

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

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

(g) Every applicant for a license hereunder shall file with the superintendent written evidence by those who know his character and reputation and by such other proof as the superintendent may require, [~~including his fingerprints,~~] that he **or she** is a person of good character and reputation and has never been convicted of any offense involving moral turpitude or of any crime. If such applicant is a firm or corporation such proof must be made with respect to every member, shareholder, officer and director of such firm or corporation. **Every applicant for licensure and for renewal of a license shall submit his or her fingerprints to the superintendent.** Such fingerprints shall be submitted to the division of criminal justice services for a state criminal history record check, as defined in subdivision one of section three thousand

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

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thirty-five of the education law, and may be submitted to the federal bureau of investigation for a national criminal history record check.

(g-1) Every applicant shall have successfully completed a twenty-four hour pre-licensing course of classroom instruction. Such course shall include information specifying: the requirements for licensure; relevant state laws concerning bail bondsmen including insurance law; criminal procedure law and general business law; bond posting procedures in the various counties within the state; requirements for undertaking an affidavit; release orders; bond fees and related costs and expenses; elements of bail contracts; legal requirements for operating a bail bond agency; court practices and procedures; statutes relating to forfeitures; statutes relating to bail enforcement; safety procedures and recommended practices for enforcement; and current rules and regulations of the department of financial services regarding bail agents.

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

(j) Every applicant for any such license shall file with the superintendent**, at the time of application,** a qualifying bond, approved by the attorney general as to form and by the superintendent as to sufficiency, in a penalty of five thousand dollars, conditioned upon the faithful performance of the duties of such licensee. No such qualifying bond shall be subject to termination or cancellation by either party in less than sixty days after the giving of written notice to the other party and to the superintendent. A termination or cancellation shall not affect the liability of the surety or sureties on such bond incurred prior to the effective date of such termination or cancellation. If during the term of such bond such licensee shall be guilty of fraudulent or dishonest conduct or other misconduct or malfeasance in his dealings with any court or magistrate or with any person or corporation in connection with any deposit or bail bond, the attorney general may maintain an action on such qualifying bond in the name of the people of this state and either recover the full amount of the penalty or recover for the use and benefit of the person or persons aggrieved, the amount of loss or injury sustained by such person or persons by reason of such misconduct. No such recovery or recoveries shall exceed in the aggregate five thousand dollars, exclusive of interest and costs.

(m) Every license issued to an officer, employee, or agent of an insurer or charitable bail organization doing a bail business pursuant to this section shall be for a term expiring on the thirty-first day of December of even numbered years and may be renewed for the ensuing two calendar years upon the filing of a renewal application **and the completion of twelve hours of instruction consisting of courses intended to update or reinforce the materials and information presented in accordance with the provisions of subsection (g-1) of this section**. The

superintendent may refuse to issue any such license if in the superintendent's judgment such refusal will best promote the interests of the people of this state. Every such licensee and sublicensee shall file an information statement on or before the thirty-first day of December of each even numbered year, the form and subject matter of which may be prescribed by the superintendent.

§ 2. This act shall take effect on the ninetieth day after it shall have become a law and shall apply to licenses issued and renewed on and after such date.