§ 6802. Professional bondsmen; licensing. (a) No person, firm or corporation or any officer or employee thereof shall act in this state as an agent or solicitor of an insurer or charitable bail organization doing a bail business in soliciting, negotiating or effectuating any such deposit or bail bond by such insurer or charitable bail organization unless licensed by the superintendent as an agent pursuant to the provisions of this section. Any person, firm or corporation so acting without being duly licensed shall be guilty of a misdemeanor.

(b) Every corporation or charitable bail organization engaging as an insurer doing a bail business in this state shall procure a license pursuant to the provisions of this section for each of its employees, officers and agents acting for it in soliciting, negotiating or effectuating any such deposit or bail bond.

(c) The superintendent may, in the superintendent's discretion, 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.

(d) Any such license issued to a firm or corporation shall authorize only the members named in such license as sublicensees, to act individually as agents thereunder. Any sublicense issued to a corporation shall authorize only the officers and directors named in such license as sublicensees, to act individually as agents thereunder. Every sublicensee, acting as insurance agent pursuant to a license issued to a firm or corporation, shall be authorized to act only in the name of such firm or corporation.

(e) Before the issuance of a license every applicant shall satisfy the superintendent as to his trustworthiness and competence and otherwise comply with the conditions set forth in this section. The superintendent may refuse to issue any such license if in his judgment such refusal will best promote the interests of the people of this state.

(f) At the time of the application for every license a twenty-five dollar fee shall be paid to the superintendent for each year or fraction of a year in which a license shall be valid for each individual applicant and for each proposed sublicensee.

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

(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 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.

(i) Every individual applying to take any written examination shall at the time of applying pay to the superintendent, or at the discretion of the superintendent, directly to any organization that is under contract to provide examination services, an examination fee of an amount which is the actual documented administrative cost of conducting the examination as certified by the superintendent from time to time. An examination fee represents an administrative expense and is not refundable.

(j) Every applicant for any such license shall file with the superintendent 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.

(k) The superintendent may, upon notice and after a hearing, revoke or suspend, for such period as he may determine, any such license or sublicense issued pursuant to the provisions of this section if, after notice and hearing as specified in this chapter, he determines that the licensee or any sublicensee or any member of a firm or corporation which is so licensed has:

(1) violated any provision of, or any obligation imposed by, the insurance law, or has violated any other law of the state;

(2) has made a material misstatement in the application for such license;

(3) has been guilty of any fraudulent or dishonest practices or other misconduct or malfeasance;

(4) has charged or received, as premium or compensation for the making of any deposit or bail bond, any sum in excess of that permitted by law;

(5) has required, as a condition of his executing a bail bond, that the principal agree to engage the services of a specified attorney; or

(6) has demonstrated his incompetency or untrustworthiness to act as a licensee.

(l) The superintendent, in lieu of revoking or suspending a license in accordance with the provisions of this article, may, in any one proceeding, by order, require the licensee to pay to the people of this state a penalty in a sum not exceeding five hundred dollars for each

offense, and a penalty in a sum not exceeding twenty-five hundred dollars in the aggregate for all offenses. Upon failure of such licensee to pay such penalty within twenty days after the mailing of such order, postage prepaid, registered, and addressed to the last known place of business of such licensee, unless such order is stayed by a court of competent jurisdiction, the superintendent may revoke the license of such licensee or may suspend the same for such period as he may determine.

(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. 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.

(n) Any domestic, foreign or alien surety company which was licensed to do a bail bond business in this state before January first, nineteen hundred forty shall so long as its license or any renewal remains in force, be deemed licensed as an insurer to do such business within the meaning of paragraph one of subsection (b) of section six thousand eight hundred one of this article and article eleven of this chapter.

(o) This section shall not apply to any insurer authorized in this state to execute and issue policies of motor vehicle and aircraft insurance as specified in paragraphs thirteen, fourteen and nineteen of subsection (a) of section one thousand one hundred thirteen of this chapter or to any agent of such insurer or to any broker who, as an incident to the execution and issuance of any such policy or to the solicitation, negotiation or procurement thereof undertakes to pay, in addition to the applicable limits of liability, the cost of bail bonds required of the insured because of accident or asserted traffic law violations arising out of the use of a vehicle insured under the terms of the policy, provided the cost of each such bail bond does not exceed one hundred dollars, or who otherwise arranges for the execution of a

bail bond or deposit in lieu of cash bail on behalf of the insured in the event of the insured's arrest or detention by reason of an asserted violation of any law relating to the use of a motor vehicle.

(p) The superintendent may issue a replacement for a currently in force license which has been lost or destroyed. Before such replacement license shall be issued, there shall be on file in the office of the superintendent a written application for such replacement license, affirming under penalty of perjury that the original license has been lost or destroyed, together with a fee of fifteen dollars.