



House of Representatives

General Assembly

File No. 576

January Session, 2023

Substitute House Bill No. 5824

House of Representatives, April 13, 2023

The Committee on Judiciary reported through REP. STAFSTROM of the 129th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING REQUIREMENTS FOR PROFESSIONAL BAIL BONDSMEN AND SURETY BAIL BOND AGENTS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 29-146 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2023*):

3 The Commissioner of Emergency Services and Public Protection
4 shall, upon receipt of such application, cause an investigation to be
5 made of the character and financial responsibility of the applicant and,
6 if he finds that such applicant is a resident elector of good moral
7 character and of sound financial responsibility, [he] as evidenced, in
8 part, by the establishment and maintenance of a trustee account
9 pursuant to section 29-152c, as amended by this act, the commissioner
10 shall, upon payment by such applicant to the state of a license fee of two
11 hundred dollars, issue a license to such applicant to do business in this
12 state as a professional bondsman. Each such license shall be for such
13 term not exceeding one year as said commissioner determines.

14 Sec. 2. Section 29-152 of the general statutes is repealed and the
15 following is substituted in lieu thereof (*Effective October 1, 2023*):

16 Any person who violates any provision of section 29-145, 29-148, 29-
17 150 or 29-151, or fails to establish and maintain a trustee account
18 pursuant to section 29-152c, as amended by this act, shall be fined not
19 more than three thousand five hundred dollars [or imprisoned not more
20 than two years, or both,] and such person's right to engage in the
21 business of a professional bondsman in this state shall thereupon be
22 permanently forfeited.

23 Sec. 3. Section 29-152a of the general statutes is repealed and the
24 following is substituted in lieu thereof (*Effective October 1, 2023*):

25 To carry out the provisions of sections 29-144 to 29-151, inclusive, 29-
26 152b and 29-152c, as amended by this act, the Commissioner of
27 Emergency Services and Public Protection; [may:]

28 (1) Shall at least annually audit the trustee account of any professional
29 bondsman established and maintained pursuant to section 29-152c, as
30 amended by this act;

31 [(1) Inspect] (2) May inspect the books and records of any
32 professional bondsman as often as the commissioner deems necessary.
33 Said commissioner may consult with the Insurance Commissioner to
34 carry out such inspections. The Commissioner of Emergency Services
35 and Public Protection may adopt regulations, in accordance with
36 chapter 54, to (A) establish procedures for such inspections, (B) specify
37 the content and form of books and records required to be kept by
38 professional bondsmen, or (C) require a fee to be paid by professional
39 bondsmen to cover the cost of inspections; and

40 [(2) Adopt] (3) May adopt regulations, in accordance with chapter 54,
41 to carry out the provisions of sections 29-144 to 29-151, inclusive, 29-
42 152b and 29-152c, as amended by this act.

43 Sec. 4. Section 29-152c of the general statutes is repealed and the
44 following is substituted in lieu thereof (*Effective October 1, 2023*):

45 (a) A professional bondsman may accept collateral security or other
46 indemnity on a bail bond.

47 (b) A professional bondsman shall establish and maintain a trustee
48 account and deposit all such collateral security or other indemnity into
49 such account.

50 [(b)] (c) If collateral security or other indemnity was received on a bail
51 bond by a professional bondsman and such bond is terminated, such
52 bondsman shall return the collateral security or other indemnity, except
53 a promissory note or an indemnity agreement, not later than twenty-one
54 days after receipt of a written report from the court that the bail bond
55 has been terminated. Such collateral security or other indemnity shall be
56 returned to the person who gave the collateral security or other
57 indemnity unless another disposition is provided for by legal
58 assignment to another person of the right to receive the return of the
59 collateral security or other indemnity. If, despite diligent inquiry by the
60 professional bondsman to determine whether the bail bond has been
61 terminated, the court fails to provide any written report on termination,
62 the collateral security or other indemnity, except a promissory note or
63 an indemnity agreement, shall be returned to the person who provided
64 the collateral security or other indemnity not later than twenty-one days
65 after the professional bondsman has become aware that the bail bond
66 has been terminated. Acceptable forms of collateral security or other
67 indemnity include, but are not limited to, cash or its equivalent, a
68 promissory note, an indemnity agreement, a real property mortgage in
69 the name of the insurer or any Uniform Commercial Code filing.

70 [(c)] (d) No fee or other charge shall be deducted from the collateral
71 security or other indemnity due, except that actual and reasonable
72 expenses incurred by a professional bondsman in the apprehension of a
73 defendant because of a forfeiture of a bail bond or judgment may be
74 deducted if such expenses are accounted for.

75 [(d)] (e) Any person who violates this section shall be subject to the
76 penalties for larceny under sections 53a-122 to 53a-125b, inclusive,
77 depending on the amount involved.

78 Sec. 5. Subsections (f) to (h), inclusive, of section 38a-660 of the
79 general statutes are repealed and the following is substituted in lieu

80 thereof (*Effective October 1, 2023*):

81 (f) (1) Every applicant for a license shall file with the commissioner a
82 notice of appointment executed by an insurer or its authorized
83 representative authorizing such applicant to execute undertakings of
84 bail and to solicit and negotiate such undertakings on its behalf.

85 (2) An appointment of a person as a surety bail bond agent by an
86 insurer pursuant to subdivision (1) of this subsection shall constitute
87 certification by such insurer that, to the best of the insurer's knowledge
88 and belief, such person is competent, financially responsible, as
89 evidenced, in part, by the establishment and maintenance of a trustee
90 account required pursuant to subsection (b) of section 38a-660g, as
91 amended by this act, and suitable to serve as a representative of the
92 insurer. No person shall represent to the public that such person has the
93 authority to represent an insurer as its surety bail bond agent until such
94 person has been appointed by an insurer as such agent in accordance
95 with this section. An insurer shall be bound by the acts of such person
96 within the scope of such person's actual or apparent authority as such
97 insurer's agent.

98 (3) (A) Each appointment shall, by its terms, continue in force until:
99 (i) Termination of the surety bail bond agent's license; or (ii) the filing of
100 a notice of termination with the commissioner by the insurer or its
101 representative or by such surety bail bond agent.

102 (B) No such agent shall engage or attempt to engage in any activity
103 requiring such an appointment after the termination of such agent's
104 appointment. An insurer that terminates the appointment of a surety
105 bail bond agent may: (i) [~~authorize~~] Authorize such agent to take into
106 custody a principal who has absconded for whom a bail bond had been
107 executed prior to the termination of such agent's appointment; [,] and
108 (ii) seek discharge of forfeitures and judgments paid by such insurer on
109 behalf of such agent prior to such agent's termination.

110 (g) An applicant for a license shall be required to appear in person
111 and take a written examination testing the applicant's competency and

112 qualifications to act as a surety bail bond agent. The commissioner may
113 designate an independent testing service to prepare and administer
114 such examination, provided any examination fees charged by such
115 service shall be paid by the applicant. The commissioner shall collect the
116 appropriate examination fee, which shall entitle the applicant to take the
117 examination for the license, except when a testing service is used, the
118 testing service shall pay such fee to the commissioner. In either case,
119 such examination shall be as the commissioner prescribes and shall be
120 of sufficient scope to test the applicant's knowledge of subjects pertinent
121 to the duties and responsibilities of a surety bail bond agent, including
122 all laws and regulations of this state applicable thereto.

123 (h) In addition to all other requirements prescribed in this section,
124 each applicant for a license shall furnish satisfactory evidence to the
125 commissioner that: (1) The applicant is at least eighteen years of age; (2)
126 the applicant is a citizen of the United States; (3) the applicant has
127 established and maintains a trustee account, as required pursuant to
128 subsection (b) of section 38a-660g, as amended by this act; and [(3)] (4)
129 the applicant has never been convicted of a disqualifying offense. The
130 commissioner shall require each applicant to submit to a background
131 investigation, including an investigation of any prior criminal activity,
132 to be conducted by the Division of Criminal Justice. The Division of
133 Criminal Justice shall require each applicant to submit to state and
134 national criminal history records checks. Such criminal history records
135 checks shall be conducted in accordance with section 29-17a.

136 Sec. 6. Section 38a-660d of the general statutes is repealed and the
137 following is substituted in lieu thereof (*Effective October 1, 2023*):

138 (a) All premiums, including any part of a premium that a surety bail
139 bond agent is obligated to return to a principal or indemnitor, and other
140 funds belonging to insurers or others that are received by a surety bail
141 bond agent in performing such agent's duties as a surety bail bond
142 agent, including those funds held in a trustee account required pursuant
143 to subsection (b) of section 38a-660g, as amended by this act, shall be
144 deemed trust funds received by such agent in a fiduciary capacity. Such

145 agent shall account for and pay the same to the insurer or persons
146 entitled to such funds pursuant to the surety bail bond agent's contract
147 with the insurer or managing general agent. No fees, expenses or
148 charges of any kind shall be deducted from any premium the surety bail
149 bond agent is obligated to return to a principal or indemnitor, except as
150 authorized under sections 38a-660b to 38a-660k, inclusive.

151 (b) (1) A surety bail bond agent shall keep and make available to the
152 commissioner or the commissioner's designee any books, accounts and
153 records as necessary to enable the commissioner to determine whether
154 such agent is complying with the provisions of sections 38a-660b to 38a-
155 660k, inclusive. A surety bail bond agent shall preserve the books,
156 accounts and records pertaining to a premium payment for at least three
157 years after making such payment. Records that are preserved by
158 photographic or digital reproduction or records that are in photographic
159 or digital form shall be deemed to be in compliance with this subsection.

160 (2) The commissioner or the commissioner's designee shall, at least
161 annually, audit each trustee account established and maintained by a
162 surety bail bond agent pursuant to subsection (b) of section 38a-660g, as
163 amended by this act.

164 (c) Any surety bail bond agent who fails to establish and maintain a
165 trustee account pursuant to subsection (b) of section 38a-660g, as
166 amended by this act, or otherwise diverts or appropriates any of the
167 funds received under subsection (a) of this section for such agent's own
168 use shall be subject to the penalties for larceny under sections 53a-122 to
169 53a-125b, inclusive, depending on the amount involved.

170 Sec. 7. Subsection (b) of section 38a-660g of the general statutes is
171 repealed and the following is substituted in lieu thereof (*Effective October*
172 *1, 2023*):

173 (b) A surety bail bond agent who receives collateral security or other
174 indemnity on a bail bond shall comply with all of the following
175 requirements:

176 (1) The collateral security or other indemnity shall be reasonable in
177 relation to the amount of the bail bond;

178 (2) The collateral security or other indemnity shall not be used by the
179 surety bail bond agent for personal benefit or gain and shall be returned
180 in the same condition as received;

181 (3) Acceptable forms of collateral security or other indemnity include,
182 but are not limited to, cash or its equivalent, a promissory note, an
183 indemnity agreement, a real property mortgage in the name of the
184 insurer or any Uniform Commercial Code filing;

185 (4) The surety bail bond agent shall provide to the person providing
186 the collateral security or other indemnity a written, numbered receipt
187 that describes in a detailed manner the collateral security or other
188 indemnity provided, along with copies of any documents rendered;

189 (5) The surety bail bond agent shall hold the collateral security or
190 other indemnity in a fiduciary capacity and shall, prior to any forfeiture
191 of a bail bond, keep the collateral security or other indemnity separate
192 and apart from any other funds or assets of the surety bail bond agent
193 in a trustee account established and maintained by the surety bail bond
194 agent;

195 (6) If the surety bail bond agent receives collateral security or other
196 indemnity in excess of fifty thousand dollars in cash, the cash amount
197 shall be made payable to the insurer in the form of a cashier's check,
198 United States postal money order, certificate of deposit or wire transfer;
199 and

200 (7) If the surety bail bond agent receives collateral security or other
201 indemnity in excess of fifty thousand dollars in cash or its equivalent,
202 the agent shall promptly forward the entire amount of such collateral
203 security or other indemnity to the insurer or managing general agent.

204 Sec. 8. Section 38a-660l of the general statutes is repealed and the
205 following is substituted in lieu thereof (*Effective October 1, 2023*):

206 (a) The commissioner: [may] (1) Except as provided in subdivision (2)
 207 of this subsection, may suspend or revoke the license of a surety bail
 208 bond agent, or may impose a fine in an amount not more than three
 209 thousand five hundred dollars in lieu of or in addition to such
 210 suspension or revocation in accordance with section 38a-774 for any
 211 violation of section 38a-660, as amended by this act, and sections 38a-
 212 660b to 38a-660k, inclusive; or (2) shall suspend or revoke the license of
 213 a surety bail bond agent, and may impose a fine in an amount not more
 214 than three thousand five hundred dollars in addition to such suspension
 215 or revocation in accordance with section 38a-774.

216 (b) Upon the surrender, suspension or revocation of a surety bail
 217 bond agent's license, the appointing insurer or managing general agent
 218 shall immediately designate a licensed and appointed surety bail bond
 219 agent to administer all bail bonds previously executed by the licensee.

220 (c) Any individual aggrieved by the action of the commissioner under
 221 subsection (a) of this section may appeal therefrom, in accordance with
 222 section 38a-774.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2023	29-146
Sec. 2	October 1, 2023	29-152
Sec. 3	October 1, 2023	29-152a
Sec. 4	October 1, 2023	29-152c
Sec. 5	October 1, 2023	38a-660(f) to (h)
Sec. 6	October 1, 2023	38a-660d
Sec. 7	October 1, 2023	38a-660g(b)
Sec. 8	October 1, 2023	38a-660l

Statement of Legislative Commissioners:
 In Section 4(b), "bondman" was changed to "bondsman" for accuracy;
 and in Section 6(b)(2), "bail" was added after "surety" for accuracy.

JUD Joint Favorable Subst.

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 24 \$	FY 25 \$
Insurance Dept.	IF - Cost	See Below	At least 457,673
Insurance Dept.	GF - Revenue Impact	Minimal	Minimal
Department of Emergency Services and Public Protection	GF - Cost	See Below	At least 50,000
Judicial Dept. (Probation); Correction, Dept.	GF - Potential Cost	See Below	See Below
Resources of the General Fund	GF - Potential Revenue Gain	See Below	See Below

Note: IF=Insurance Fund; GF=General Fund

Municipal Impact: None

Explanation

The bill requires both professional bail bondsmen and surety bail bond agents to create trustee accounts subject to state audits, and establishes penalties for failure to do so, resulting various impacts to the agencies described below.

Sections 1-4 require: (1) professional bail bondsmen to keep collateral security or other indemnity in a trustee account established and maintained by the professional bail bondsmen, and (2) the Department of Emergency Services and Public Protection (DESPP), which regulates such persons, to audit each such trustee account at least annually, resulting in a cost of at least \$50,000 annually.

DESPP does not currently employ any fiscal auditors and will need to contract with a third party to perform the audits. Costs will depend

on: (1) the complexity and scope of the audits, and (2) the number of trustee accounts to be audited. Currently, there are about 20 bail bondsmen that would be required to have at least one trustee account subject to these audits. Given the bill's October 1, 2023, effective date for when the accounts must be established, it is not clear if any audits will be conducted in FY 24. Annualized costs described above would begin in FY 25.

Sections 5-7 require: (1) surety bail bond agents, prior to forfeiture of a bail bond, to keep collateral security or other indemnity in a trustee account established and maintained by the surety bail bond agent, and (2) the Insurance Department (DOI), which regulates such agents, to audit each such trustee account at least annually. DOI does not conduct financial audits for these licensees currently.

This results in a cost to DOI from the Insurance Fund, anticipated to be at least \$457,673 annually, for either: (1) three or more additional staff or (2) contract costs for a third party to perform the audits. According to DOI, there are currently 237 licensed surety bail bond agents. Under the bill, each agent would be required to have at least one trustee account audited by DOI annually. Costs will depend on: (1) the complexity and scope of the audits, and (2) the number of trustee accounts to be audited.

Should the agency conduct the audits internally, DOI is anticipated to hire three or more Accounts Examiners (each with a starting salary of \$75,000 and fringe benefit costs of \$77,558 annually), at a total annualized cost of at least \$457,673.¹ Given the bill's October 1, 2023, effective date for when the accounts must be established, it is not clear if DOI will conduct any audits (and so incur partial year costs) in FY 24. Annualized costs described above would begin in FY 25.

Under current law and unchanged by the bill, surety bail bond agents

¹ The fringe benefit costs for employees funded out of other appropriated funds are budgeted within the fringe benefit account of those funds, as opposed to the fringe benefit accounts within the Office of the State Comptroller. The estimated active employee fringe benefit cost associated with most personnel changes for other appropriated fund employees is 103.41% of payroll in FY 24.

pay an annual fee of \$450 dollars to support examination, which DOI conducts as needed, to evaluate compliance with applicable laws. Revenue from the fee is about \$100,000 annually. DOI typically contracts with a third party at a cost of \$3,000-\$5,000 per examination.² It may be possible for these examinations to be increased in scope at a lower marginal cost than contracting for a full new audit, partially reducing anticipated contracting costs for annual audits of all licensees under the bill, should the agency pursue that approach.

Sections 4 and 6 subject professional bail bondsmen and surety bail bond agents to the penalties of larceny³ for failure to establish and maintain a trustee account resulting in a potential cost to the Judicial Department and the Department of Correction and a potential revenue gain from fines to the extent violations occur. On average, the marginal cost to the state for incarcerating an offender for the year is \$2,500⁴ while the average marginal cost for supervision in the community is less than \$800⁵ each year.

Section 8 may result in a minimal change to General Fund revenue associated with fines assessed by DOI. While the section potentially reduces fine revenue by lowering the maximum fine that may be assessed against surety bail bond agents to \$3,500, other provisions of the bill may result in more actions being brought against licensees, offsetting that effect and increasing fine revenue. Any revenue impact is anticipated to be minimal, based on recent activity.

The Out Years

²Revenue in the account is only sufficient to examine a fraction (less than 20%) of licensees annually at these costs.

³ Larceny charges range from a C misdemeanor to a class B felony.

⁴ Inmate marginal cost is based on increased consumables (e.g. food, clothing, water, sewage, living supplies, etc.) This does not include a change in staffing costs or utility expenses because these would only be realized if a unit or facility opened.

⁵ Probation marginal cost is based on services provided by private providers and only includes costs that increase with each additional participant. This does not include a cost for additional supervision by a probation officer unless a new offense is anticipated to result in enough additional offenders to require additional probation officers.

The annualized ongoing fiscal impact identified above would continue into the future subject to the scope and number of audits conducted.

OLR Bill Analysis

sHB 5824

AN ACT CONCERNING REQUIREMENTS FOR PROFESSIONAL BAIL BONDSMEN AND SURETY BAIL BOND AGENTS.**SUMMARY**

This bill requires both professional bail bondsmen and surety bail bond agents to create trustee accounts and establishes penalties for failure to do so. These bondsmen and agents must deposit all collateral security or other indemnity that they accept on bail bonds into these accounts.

A professional bondsman puts up personal assets as bond security and is regulated by the Department of Emergency Services and Public Protection (DESPP) commissioner. A surety bail bond agent, through a contract with an insurer, sells bail bonds in criminal cases and is regulated by the insurance commissioner. The bill requires the applicable commissioner to audit each bondsman or agent's account.

EFFECTIVE DATE: October 1, 2023

TRUSTEE ACCOUNT***Professional Bondsmen***

Licensure. The bill requires each professional bondsman to establish and maintain a trustee account. The bondsman must deposit all collateral security or other indemnity that he or she accepts on a bail bond into the account. The DESPP commissioner must determine that professional bondsman license applicants have the account prior to issuing the license. The commissioner must also audit each trustee account at least annually.

Penalties. Failure to establish and maintain a trustee account results in a fine of up to \$3,500, and violators permanently forfeit their right to

engage in the business of a professional bondsman.

The bill also reduces the penalty for violating certain professional bail bondsman laws by limiting it to a fine of up to \$3,500 and eliminating the allowance for a prison sentence of up to two years or both. It also makes technical and conforming changes.

Surety Bail Bond Agent

Licensure and Appointment. By law, a person may not act as a surety bail bond agent unless licensed by the insurance commissioner and appointed by an insurer. The bill adds a new requirement for both licensure and appointment.

Under current law, an applicant for a surety bail bond agent license must provide the insurance commissioner with evidence of age, citizenship, and a record free of disqualifying offenses. The bill adds the requirement that the applicant also provide evidence that he or she has established and maintains a trustee account. Additionally, the bill requires the commissioner or his or her designee to annually audit each surety bond agent's trustee account.

Relatedly, under current law an insurer's appointment of a person as a surety bail bond agent certifies that the insurer believes the agent is financially responsible. The bill requires surety bail bond agents to establish and maintain a trustee account as evidence of their financial responsibility.

Trust Funds. Under current law, all premiums and funds belonging to insurers or others that the surety bail bond agent receives when performing his or her duties are considered trust funds received by the surety bail bond agent in a fiduciary capacity. The bill adds the funds held in the agent's trustee account to those considered trust funds under the law.

Penalties. A surety bail bond agent's failure to establish and maintain a trustee account is subject to the penalties for larceny under existing law, depending on the amount involved (see BACKGROUND).

These same penalties apply under existing law when an agent diverts or appropriates any trust funds for his or her own use.

Current law allows the commissioner to do the following for any violation of the bail bond insurance laws: suspend or revoke the surety bail bond agent's license, impose a fine up to \$5,000, or both. The bill caps the possible fine amount at \$3,500. However, the bill simultaneously requires the commissioner to suspend or revoke the agent's license, with the option to impose the fine of up to \$3,500. (It is unclear under which circumstances the commissioner is required to suspend or revoke the agent's license).

COLLATERAL SECURITY AND OTHER INDEMNITY

Professional Bondsman

By law, a professional bondsman may accept collateral security or indemnity on a bail bond. If a bondsman accepted collateral or indemnity on a bond and the bond is terminated, he or she must return the collateral or indemnity, unless it is a promissory note or an indemnity agreement, within 21 days after (1) receiving a court's written report that a bond was terminated or (2) becoming aware that a bond was terminated even if, despite diligent inquiry, the court does not issue a written report. The collateral or indemnity must be returned to the person who provided it, unless the right to receive it was legally assigned to another person.

The bill specifies that acceptable forms of collateral security or other indemnity for a professional bondman include, but are not limited to, the following: (1) cash or its equivalent, (2) a promissory note, (3) an indemnity agreement, (4) a real property mortgage in the name of the insurer, or (5) any Uniform Commercial Code filing.

Surety Bail Bond Agent

Existing law requires surety bail bond agents to hold the collateral security or other indemnity in a fiduciary capacity. Prior to any forfeiture of a bail bond, current law requires the agent to keep the collateral security or other indemnity separate and apart from any other

funds or assets the agent has. The bill specifies that they must be kept in a trustee account established and maintained by the agent.

BACKGROUND

Larceny Penalties

The following penalties are set in law for larceny, depending on the amount involved:

1. if the amount exceeds \$20,000, it is a class B felony, punishable by one to 20 years in prison, a fine of up to \$15,000, or both;
2. if the amount exceeds \$10,000, it is a class C felony, punishable by one to 10 years in prison, a fine of up to \$10,000, or both;
3. if the amount exceeds \$2,000, it is a class D felony, punishable by up to five years in prison, a fine of up to \$5,000, or both;
4. if the amount exceeds \$1,000, it is a class A misdemeanor, punishable by up to 364 days in prison, a fine of up to \$2,000, or both;
5. if the amount exceeds \$500, it is a class B misdemeanor, punishable by up to six months in prison, a fine of up to \$1,000, or both; and
6. if the amount is \$500 or less, it is a class C misdemeanor, punishable by up to three months in prison, a fine of up to \$500, or both.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 37 Nay 0 (03/27/2023)