

**Proposed Substitute
Bill No. 5824**

January Session, 2023

LCO No. 6413

AN ACT REFORMING THE BAIL SYSTEM.

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 Section 29-146 of the general statutes is repealed and the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 Section 29-152 of the general statutes is repealed and the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 maintain a trustee account in accordance with
18 section 29-152c, as amended by this act, shall be fined not more than
19 three thousand five hundred dollars [or imprisoned not more than two
20 years, or both,] and such person's right to engage in the business of a
21 professional bondsman in this state shall thereupon be permanently

22 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 Section 29-152a of the general statutes is repealed and the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 required pursuant to section 29-152c, as amended by this act;

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

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

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 Section 29-152c of the general statutes is repealed and the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

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

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

49 [(b)] (c) If collateral security or other indemnity was received on a bail

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

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

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

77 Sec. 5. Subsections (f) to (h), inclusive, of section 38a-660 of the
78 general statutes is repealed and the following is substituted in lieu
79 thereof (*Effective October 1, 2023*):

80 (f) (1) Every applicant for a license shall file with the commissioner a
81 notice of appointment executed by an insurer or its authorized

82 representative authorizing such applicant to execute undertakings of
83 bail and to solicit and negotiate such undertakings on its behalf.

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

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

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

109 (g) An applicant for a license shall be required to appear in person
110 and take a written examination testing the applicant's competency and
111 qualifications to act as a surety bail bond agent. The commissioner may
112 designate an independent testing service to prepare and administer
113 such examination, provided any examination fees charged by such

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

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

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

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

146 with the insurer or managing general agent. No fees, expenses or
147 charges of any kind shall be deducted from any premium the surety bail
148 bond agent is obligated to return to a principal or indemnitor, except as
149 authorized under sections 38a-660b to 38a-660k, inclusive.

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

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

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

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

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

175 (1) The collateral security or other indemnity shall be reasonable in

176 relation to the amount of the bail bond;

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

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

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

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

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

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

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

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

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

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

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