

By Senator Abruzzo

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1 A bill to be entitled
2 An act relating to bail bonds; amending s. 648.25,
3 F.S.; defining and redefining terms; amending s.
4 648.30, F.S.; prohibiting a person from transmitting
5 or posting an electronic bond with attached power of
6 attorney unless he or she is duly qualified, licensed,
7 appointed, and registered as a bail bond agent;
8 amending s. 648.42, F.S.; authorizing a duly
9 qualified, licensed, appointed, and registered bail
10 bond agent to transmit electronic bonds within the
11 judicial circuit in which the bail bond agency is
12 located under certain circumstances; amending s.
13 648.43, F.S.; requiring the Department of Financial
14 Services to approve a sample electronic power of
15 attorney form; amending s. 648.44, F.S.; prohibiting a
16 bail bond agent or temporary bail bond agent from
17 transmitting or posting an electronic bond with
18 attached power of attorney under certain
19 circumstances; prohibiting a bail bond agent from
20 authorizing another person to countersign his or her
21 name to a bond or power of attorney; prohibiting a
22 bail bond agent from facilitating or allowing an
23 unlicensed person or a person without proper
24 appointment to transmit or post electronic bonds;
25 providing a criminal penalty; amending s. 648.441,
26 F.S.; prohibiting an insurer or managing general agent
27 from furnishing an unlicensed individual or entity a
28 form necessary for transmitting or posting electronic
29 bonds; amending s. 903.09, F.S.; revising requirements

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30 for a bail bond agent to justify his or her suretyship
31 to include electronic bonds; amending s. 903.101,
32 F.S.; authorizing a qualified, licensed, appointed,
33 and registered bail bond agent to transmit or post
34 electronic bonds within the judicial circuit in which
35 the bail bond agency is located under certain
36 circumstances; amending s. 903.33, F.S.; providing
37 that electronic bonds are considered original
38 documents; amending s. 903.34, F.S.; providing
39 requirements for bond, posted in person or initiated
40 electronically, to be approved by a committing trial
41 court judge or the sheriff; providing an effective
42 date.

43
44 Be It Enacted by the Legislature of the State of Florida:

45
46 Section 1. Section 648.25, Florida Statutes, is reordered
47 and amended to read:

48 648.25 Definitions.—As used in this chapter, the term:

49 (1) "Bail bond agency" means:

50 (a) The building where a licensee maintains an office and
51 where all records required by ss. 648.34 and 648.36 are
52 maintained; ~~or~~

53 (b) An entity that:

54 1. Charges a fee or premium to release an accused defendant
55 or detainee from jail; or

56 2. Engages in or employs others to engage in any activity
57 that may be performed only by a licensed and appointed bail bond
58 agent; or.

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59 (c) An entity that is physically located in a judicial
60 circuit and that transmits electronic bonds. Such bonds may only
61 be transmitted to a jail that is located in the same judicial
62 circuit as the agency.

63 (2) "Bail bond agent" means a limited surety agent or a
64 professional bail bond agent ~~as hereafter defined.~~

65 (3) "Delivery" means:

66 (a) Hand delivering a bond with attached power of attorney;

67 or

68 (b) Electronic transmission of a bond with attached power
69 of attorney.

70 (4) "Electronic bond" means a bond that is:

71 (a) Transmitted or posted electronically with attached
72 power of attorney by delivery to a jail or place where a
73 defendant is being held using a delivery method other than hand
74 delivering the executed power of attorney and completed bond
75 form to the facility;

76 (b) Originated through the surety company guaranteeing its
77 undertaking which is admitted to and authorized by this state
78 and which possesses a certificate of authority to underwrite
79 bail bonds in this state; and

80 (c) Filed using a computer program to transmit information
81 electronically to another party.

82 (7)-(3) "Managing general agent" means an ~~any~~ individual,
83 partnership, association, or corporation appointed or employed
84 by an insurer to supervise or manage the bail bond business
85 written in this state by limited surety agents appointed by the
86 insurer.

87 (5)-(4) "Insurer" means a ~~any~~ domestic, foreign, or alien

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88 surety company which has been authorized to transact surety
89 business in this state.

90 (6)~~(5)~~ "Limited surety agent" means an ~~any~~ individual
91 appointed by an insurer by power of attorney to execute or
92 countersign bail bonds in connection with judicial proceedings
93 and who receives or is promised money or other things of value
94 therefor.

95 (8)~~(6)~~ "Primary bail bond agent" means a licensed bail bond
96 agent who is responsible for the overall operation and
97 management of a bail bond agency location and whose
98 responsibilities include hiring and supervising all individuals
99 within that location. A bail bond agent may be designated as
100 primary bail bond agent for no more than ~~only~~ one bail bond
101 agency location.

102 (9)~~(7)~~ "Professional bail bond agent" means a ~~any~~ person
103 who pledges United States currency, United States postal money
104 orders, or cashier's checks as security for a bail bond in
105 connection with a judicial proceeding and receives or is
106 promised ~~therefor~~ money or other things of value therefor.

107 (10) "Surety" means a property and casualty insurance
108 company holding a certificate of authority to transact surety
109 business in this state.

110 (11)~~(8)~~ "Temporary bail bond agent" or "temporary licensee"
111 means a person employed by a bail bond agent or agency, insurer,
112 or managing general agent, and such licensee has the same
113 authority as a licensed bail bond agent, including presenting
114 defendants in court; apprehending, arresting, and surrendering
115 defendants to the proper authorities, while accompanied by a
116 supervising bail bond agent or an agent from the same bail bond

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117 agency; and keeping defendants under necessary surveillance.
118 However, a temporary bail bond agent or temporary licensee may
119 not execute or sign bonds, handle collateral receipts, or
120 deliver bonds to appropriate authorities. A temporary bail bond
121 agent or temporary licensee may not operate an agency or branch
122 agency separate from the location of the supervising bail bond
123 agent, managing general agent, or insurer by whom the temporary
124 bail bond agent or temporary licensee is employed. This does not
125 affect the right of a bail bond agent or insurer to hire counsel
126 or to obtain the assistance of law enforcement officers.

127 Section 2. Section 648.30, Florida Statutes, is amended to
128 read:

129 648.30 Licensure and appointment required.—

130 (1) A person may not act in the capacity of a bail bond
131 agent or temporary bail bond agent or perform any of the
132 functions, duties, or powers prescribed for bail bond agents or
133 temporary bail bond agents under this chapter unless that person
134 is qualified, licensed, and appointed as provided in this
135 chapter.

136 (2) A person may not represent himself or herself to be a
137 bail enforcement agent, bounty hunter, or other similar title in
138 this state.

139 (3) A person, other than a certified law enforcement
140 officer, may not apprehend, detain, or arrest a principal on a
141 bond, wherever issued, unless that person is qualified,
142 licensed, and appointed as provided in this chapter or licensed
143 as a bail bond agent or bail bond enforcement agent, or holds an
144 equivalent license by the state where the bond was written.

145 (4) A person may not transmit or post an electronic bond

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146 with attached power of attorney unless that person is qualified,
147 licensed, appointed, and registered as a bail bond agent as
148 provided in this chapter.

149 (5)-(4) A Any person who violates this section commits a
150 felony of the third degree, punishable as provided in s.
151 775.082, s. 775.083, or s. 775.084.

152 Section 3. Section 648.42, Florida Statutes, is amended to
153 read:

154 648.42 Registration of bail bond agents.—

155 (1) A bail bond agent may not become a surety on an
156 undertaking unless he or she has registered in the office of the
157 sheriff and with the clerk of the circuit court in the county in
158 which the bail bond agent resides. The bail bond agent may
159 register in a like manner in any other county. A, ~~and any~~ bail
160 bond agent shall file a certified copy of his or her appointment
161 by power of attorney from each insurer that ~~which~~ he or she
162 represents as a bail bond agent with each of such officers.
163 Registration and filing of a certified copy of renewed power of
164 attorney shall be performed by April 1 of each odd-numbered
165 year. The clerk of the circuit court and the sheriff may ~~shall~~
166 not permit the registration of a bail bond agent unless such
167 bail bond agent is currently licensed and appointed by the
168 department. ~~Nothing in~~ This section does not ~~shall~~ prevent the
169 registration of a temporary licensee at the jail for the
170 purposes of enabling the licensee to perform the duties under
171 such license as described ~~set forth~~ in this chapter.

172 (2) A duly qualified, licensed, appointed, and registered
173 bail bond agent may transmit or post electronic bonds in the
174 judicial circuit in which the bail bond agency is located if the

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175 sheriff agrees to accept such electronic bonds.

176 Section 4. Subsection (1) of section 648.43, Florida
177 Statutes, is amended to read:

178 648.43 Power of attorney; to be approved by department;
179 filing of copies; notification of transfer bond.—

180 (1) Every insurer engaged in the writing of bail bonds
181 through bail bond agents in this state shall submit to and have
182 approved by the department ~~a sample~~ powers ~~power~~ of attorney,
183 including an electronic power of attorney to be attached to an
184 electronic bond, which will be the only forms ~~form~~ of powers
185 ~~power~~ of attorney the insurer will issue to bail bond agents in
186 this state.

187 Section 5. Paragraph (q) is added to subsection (1) of
188 section 648.44, Florida Statutes, and subsection (3) and
189 paragraph (a) of subsection (9) of that section are amended, to
190 read:

191 648.44 Prohibitions; penalty.—

192 (1) A bail bond agent or temporary bail bond agent may not:

193 (q) Transmit or post an electronic bond with attached power
194 of attorney unless he or she:

195 1. Is duly qualified, licensed, appointed, and registered
196 as a bail bond agent as provided in this chapter;

197 2. Is registered in the county within the judicial circuit;

198 and

199 3. Has a bail bond agency physically located in the
200 judicial circuit in which the electronic bond is being
201 transmitted.

202 (3) A bail bond agent may not:

203 (a) Sign or countersign in blank any bond or otherwise

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204 authorize another person to countersign his or her name to a
205 bond or, give a power of attorney to, or otherwise authorize,
206 anyone to countersign his or her name to bonds unless the person
207 so authorized is a licensed and appointed bail bond agent
208 directly employed by the bail bond agent giving such power of
209 attorney.

210 (b) Facilitate or allow an unlicensed person or a person
211 without a proper appointment to transmit or post an electronic
212 bond.

213 (9) (a) A ~~Any~~ person who violates ~~any provisions of~~
214 paragraph (1) (e), paragraph (1) (f), paragraph (1) (g), paragraph
215 (1) (j), ~~or~~ paragraph (1) (n), paragraph (1) (q), or subsection (2)
216 commits a felony of the third degree, punishable as provided in
217 s. 775.082, s. 775.083, or s. 775.084.

218 Section 6. Section 648.441, Florida Statutes, is amended to
219 read:

220 648.441 Furnishing supplies to unlicensed bail bond agent
221 prohibited; civil liability and penalty.—

222 (1) An insurer, managing general agent, bail bond agent, or
223 temporary bail bond agent appointed under this chapter may not
224 furnish to any person any blank forms, applications, stationery,
225 business card, or other supplies to be used in soliciting,
226 negotiating, or effecting bail bonds until such person has
227 received from the department a license to act as a bail bond
228 agent and is appointed by the insurer. This section does not
229 prohibit an unlicensed employee, under the direct supervision
230 and control of a licensed and appointed bail bond agent, from
231 possessing or executing in the bail bond agency, ~~any forms,~~
232 except for powers of attorney, bond forms, and collateral

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233 receipts, while acting within the scope of his or her
234 employment.

235 (2) An insurer or managing general agent may not furnish to
236 an unlicensed individual or entity any form necessary for the
237 transmittal or posting of electronic bonds.

238 (3)~~(2)~~ An ~~Any~~ insurer, licensee, or appointee who furnishes
239 to any bail bond agent or other person not named or appointed by
240 the insurer represented any of the supplies specified ~~mentioned~~
241 in subsection (1) and accepts any bail bond business from or
242 writes any bail bond business for such bail bond agent, person,
243 or agency is subject to civil liability to any insured of such
244 insurer or indemnitor to the same extent and in the same manner
245 as if such bail bond agent or other person had been appointed or
246 authorized by the insurer, managing general agent, or bail bond
247 agent to act in its or his or her behalf by the department.

248 (4)~~(3)~~ A ~~Any~~ person who violates this section commits a
249 misdemeanor of the first degree, punishable as provided in s.
250 775.082 or s. 775.083, except that the violator is subject to a
251 fine of up to ~~not to exceed~~ \$5,000 in addition to, or in lieu
252 of, any term of imprisonment.

253 Section 7. Section 903.09, Florida Statutes, is amended to
254 read:

255 903.09 Justification of sureties.—

256 (1) A surety shall execute an affidavit stating that she or
257 he possesses the qualifications and net worth required to become
258 a surety. The affidavit shall describe the surety's property and
259 any encumbrances and shall state the number and amount of any
260 bonds entered into by the surety at any court that remain
261 undischarged.

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262 (2) A bail bond agent, as defined in s. 648.25(2), shall
263 justify her or his suretyship by any of the following:

264 (a) Attaching the original a copy of the power of attorney
265 issued by the company bearing an original signature of a duly
266 qualified, licensed, appointed, and registered bail bond agent
267 to the bond or by attaching to the bond United States currency,
268 a United States postal money order, or a cashier's check in the
269 amount of the bond; but the United States currency, United
270 States postal money order, or cashier's check cannot be used to
271 secure more than one bond. Nothing herein shall prohibit two or
272 more qualified sureties from each posting any portion of a bond
273 amount, and being liable for only that amount, so long as the
274 total posted by all cosureties is equal to the amount of bond
275 required.

276 (b) Transmitting or posting electronic bonds from the
277 surety company of the executed power of attorney, if allowed by
278 the sheriff.

279 (c) Attaching to the bond United States currency, a United
280 States postal money order, or a cashier's check in the amount of
281 the bond; however, the United States currency, United States
282 postal money order, or cashier's check may not be used to secure
283 more than one bond.

284 (3) This section does not prohibit two or more qualified
285 sureties from each posting any portion of a bond amount and
286 being liable for only that amount, so long as the total posted
287 by all cosureties is equal to the amount of bond required.

288 Section 8. Section 903.101, Florida Statutes, is amended to
289 read:

290 903.101 Sureties; licensed persons; to have equal access.-

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291 Subject to rules adopted by the Department of Financial Services
292 and by the Financial Services Commission, each ~~every~~ surety who
293 meets the requirements of ss. 903.05, 903.06, 903.08, and
294 903.09, and each ~~every~~ person who is currently licensed by the
295 Department of Financial Services and registered as required by
296 s. 648.42 shall have equal access to the jails of this state for
297 the purpose of making bonds. A duly qualified, licensed,
298 appointed, and registered bail bond agent may transmit or post
299 electronic bonds in the judicial circuit in which the bail bond
300 agency is located if the sheriff agrees to accept such
301 electronic bonds.

302 Section 9. Section 903.33, Florida Statutes, is amended to
303 read:

304 903.33 Bail not discharged for certain defects.—The
305 liability of a surety is ~~shall~~ ~~be~~ affected by his or her
306 lack of any qualifications required by law, any agreement not
307 expressed in the undertakings, or the failure of the defendant
308 to join in the bond. An electronic bond is considered an
309 original document and may not be discharged as expressed above.

310 Section 10. Section 903.34, Florida Statutes, is amended to
311 read:

312 903.34 Who may admit to bail.—

313 (1) In criminal actions instituted or pending in a any
314 state court, bonds given by defendants before trial until appeal
315 shall be approved by a committing trial court judge or the
316 sheriff. The bond must:

317 (a) Be posted in person by a duly qualified, licensed,
318 appointed, and registered bail bond agent pursuant to s. 648.42
319 by attaching to the bond a power of attorney in a form approved

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320 by the Department of Financial Services and issued by a
321 qualified surety insurance company for whom a certificate of
322 authority has been issued by the Department of Financial
323 Services; or

324 (b) Be transmitted and posted as an electronic bond as
325 defined in s. 648.25 by a duly qualified, licensed, appointed,
326 and registered bail bond agent pursuant to s. 648.42. The
327 transmittal or posting of an electronic bond must originate
328 through the surety company guaranteeing its undertaking. The
329 surety company must electronically transmit the bond and power
330 of attorney on forms approved by the Department of Financial
331 Services for the qualified surety insurance company for whom a
332 certificate of authority has been issued by the Department of
333 Financial Services, and:

334 1. The sheriff must agree to accept the transmittal and
335 posting of an electronic bond and attached power of attorney;
336 and

337 2. The transmittal and posting of an electronic bond and
338 attached power of attorney must be originated by a duly
339 qualified, licensed, appointed, and registered bail bond agent
340 whose office and agency is physically located in the county
341 where the bond is to be posted.

342 (2) Appeal bonds shall be approved as provided in s.
343 924.15.

344 Section 11. This act shall take effect July 1, 2014.