

Department of Legislative Services
Maryland General Assembly
2011 Session

FISCAL AND POLICY NOTE

Senate Bill 686
Finance

(Senator Astle)

Bail Bondsmen - Bail Bond Premium Payments - Installment Contracts

This bill authorizes a bail bondsman to accept installment payments for a bail bond premium. If a bail bondsman agrees to accept installment payments, the bail bondsman must (1) include specified information in the installment agreement; (2) secure a signed affidavit of surety by the defendant or the insurer containing the same information included in the installment agreement and provide it to the court; (3) take all necessary steps to collect the total amount owed, including any debt collection remedies provided by law; (4) keep and maintain records of all collection attempts, installment agreements, and affidavits of surety; and (5) certify each year to the Insurance Commissioner that the maintained records are accurate and true.

If a bail bondsman violates any provision of the bill, the Insurance Commissioner may take specified actions authorized under the Insurance Article.

Fiscal Summary

State Effect: Potential decrease in general fund expenditures if the bill leads to a higher number of pre-trial releases. The ability of bail bondsmen to accept installment plans may lead to a willingness to post bond in a higher number of situations; however, the amount should be minimal as the bill merely codifies an already prevalent practice among bail bondsmen. Imposition of existing monetary penalties is not likely to materially affect State revenues.

Local Effect: Potential decrease in local expenditures if the bill leads to a higher number of pre-trial releases. The ability of bail bondsmen to accept installment plans may lead to a willingness to post bond in a higher number of situations; however, the amount should be minimal as the bill merely codifies an already prevalent practice among bail bondsmen. Revenues are not affected.

Small Business Effect: Minimal. The bill codifies a practice already prevalent among bail bondsmen; however, the records retention and certification requirement may minimally increase expenditures.

Analysis

Bill Summary: If a bail bondsman arranges to accept installment payments for the premium charged for a bail bond, the installment agreement and signed affidavit of surety must include (1) the total amount of the premium owed; (2) the amount of any down payment; (3) the amount financed by the bail bondsman or the bail bondsman's insurer; (4) the amount and due date of each installment payment; and (5) the total number of installment payments required to pay the amount financed.

A bail bondsman must keep and maintain the records required under the bill in an office that is generally accessible to the public during normal business hours.

Current Law/Background: There is no statute indicating whether bail bondsmen may accept installments for the premium charged for a bail bond. However, a circuit court has the authority to adopt rules setting the terms and conditions of bail bonds filed in that court and rules on the qualifications of and fees charged by bail bondsmen. The Maryland Insurance Administration (MIA) licenses and regulates surety bail bondsmen in the State. MIA advises that this bill authorizes a practice for all bail bondsmen already commonly used in the State.

Bail is intended to ensure the presence of the defendant in court, not as punishment. If there is a concern that the defendant will fail to appear in court, but otherwise does not appear to pose a significant threat to the public, the defendant may be required to post a bail bond rather than be released on recognizance. A bail bond is the written obligation of the defendant, with or without a surety or collateral security, conditioned on the personal appearance of the defendant in court as required and providing for payment of a specified penalty (the amount of the bail) upon default.

Once the bail has been set, the defendant may secure release by posting cash or other collateral with the court, such as a corporate surety bond, a certified check, intangible property, or encumbrances on real property, in an amount required by the judicial officer. Often the defendant is released after posting cash equal to 10% of the full penalty amount, although security for a greater percentage of the penalty amount, up to the full amount of the bail, may be required by the judicial officer. When the defendant is unable to post the amount required, as is often the case, the defendant may seek the assistance of a bail bondsman to obtain a corporate surety or lien on the bondsman's real property to

secure the bond with the defendant. The bail bondsman typically charges a fee equal to 10% of the required bail bond amount for this service.

Additional Information

Prior Introductions: None.

Cross File: HB 898 (Delegate Barnes) - Judiciary and Economic Matters.

Information Source(s): Maryland Insurance Administration, Judiciary (Administrative Office of the Courts), Department of Legislative Services

Fiscal Note History: First Reader - February 28, 2011
ncs/ljm

Analysis by: Michael F. Bender

Direct Inquiries to:
(410) 946-5510
(301) 970-5510