

HOUSE BILL 1489

E2, C4, C2

0lr3436
CF SB 841

By: **Delegates Haynes and Kirk**

Introduced and read first time: March 2, 2010

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Bail Bonds – Surety Bondsmen – Licensure, Regulation, and Financing of**
3 **Bail Bonds**

4 FOR the purpose of requiring licensure by the Maryland Insurance Commissioner of
5 certain bail bondsmen; exempting property bondsmen from certain licensing
6 requirements; altering certain definitions; authorizing the Commissioner to
7 take certain disciplinary action in connection with certain violations;
8 authorizing a premium finance company to finance bail bonds under certain
9 circumstances; requiring the Commissioner to adopt regulations regarding the
10 premium financing of bail bonds; defining the scope of certain provisions;
11 providing for the repeal of laws inconsistent with this Act; providing for the
12 construction of this Act; making certain stylistic changes; providing for a
13 delayed effective date; and generally relating to the licensure and regulation of
14 surety bondsmen.

15 BY repealing and reenacting, with amendments,
16 Article – Criminal Procedure
17 Section 5–203(a) and 5–210
18 Annotated Code of Maryland
19 (2008 Replacement Volume and 2009 Supplement)

20 BY repealing and reenacting, without amendments,
21 Article – Criminal Procedure
22 Section 5–209
23 Annotated Code of Maryland
24 (2008 Replacement Volume and 2009 Supplement)

25 BY repealing and reenacting, with amendments,
26 Article – Insurance
27 Section 10–126(a), 10–301, 10–304(a), and 10–305
28 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2003 Replacement Volume and 2009 Supplement)

2 BY repealing

3 Article – Insurance

4 Section 10–302

5 Annotated Code of Maryland

6 (2003 Replacement Volume and 2009 Supplement)

7 BY adding to

8 Article – Insurance

9 Section 23–104

10 Annotated Code of Maryland

11 (2006 Replacement Volume and 2009 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
13 MARYLAND, That the Laws of Maryland read as follows:

14 **Article – Criminal Procedure**

15 5–203.

16 (a) (1) Subject to paragraph (2) of this subsection, a circuit court may
17 adopt rules setting the terms and conditions of bail bonds filed in that court and rules
18 on the qualifications of and fees charged by bail bondsmen.

19 (2) Notwithstanding any other law or rule to the contrary, if expressly
20 authorized by the court, a defendant or a private surety acting for the defendant may
21 post a bail bond by executing it in the full penalty amount and depositing with the
22 clerk of court the greater of 10% of the penalty amount or \$25.

23 (3) A bail bond commissioner may be appointed to carry out rules
24 adopted under this section.

25 (4) A violation of a rule adopted under this section is contempt of court
26 and shall be punished in accordance with Title 15, Chapter 200 of the Maryland Rules.

27 (5) A person may not engage in the business of [becoming a surety for
28 compensation on] bail bonds in criminal cases unless the person is:

29 (i) approved in accordance with any rules adopted under this
30 [section] SUBTITLE; and

31 (ii) 1. [if required under the Insurance Article,] licensed in
32 accordance with **TITLE 10, SUBTITLES 1 AND 3 OF** the Insurance Article; **OR**

1 **2. EXECUTING A BAIL BOND SECURED BY REAL**
2 **ESTATE IN THE STATE AS PROVIDED UNDER § 5–209 OF THIS SUBTITLE.**

3 5–209.

4 (a) In this section, “property bondsman” means a person other than a
5 defendant who executes a bail bond secured by real estate in the State.

6 (b) This section does not apply in the Seventh Judicial Circuit.

7 (c) A property bondsman may authorize an agent in writing to execute on
8 behalf of the property bondsman:

9 (1) a bail bond; and

10 (2) a declaration of trust or deed of trust to secure a bail bond by real
11 estate.

12 (d) If all other requirements of law are met, a person authorized by law to
13 take a bail bond shall take a bail bond secured by declaration of trust or deed of trust
14 on real estate properly executed by an authorized agent of a property bondsman.

15 (e) (1) A person who acts as a property bondsman for compensation shall
16 provide to the court documentation of ownership, tax status, and liens against the
17 property posted.

18 (2) A person described under paragraph (1) of this subsection who
19 willfully provides false documentation is guilty of a misdemeanor and on conviction is
20 subject to imprisonment not exceeding 1 year or a fine not exceeding \$1,000 or both.

21 5–210.

22 (a) (1) In this section the following words have the meanings indicated.

23 (2) “Agent” means a person that acts or is authorized to act as the
24 representative of a bail bondsman.

25 (3) (i) “Bail bondsman” [means a licensed limited surety agent or a
26 licensed professional bail bondsman] **HAS THE MEANING STATED IN § 10–301 OF**
27 **THE INSURANCE ARTICLE.**

28 (ii) “Bail bondsman” does not include a person that contracts
29 with a public agency to provide bail bonds to persons detained in a correctional
30 facility.

31 (b) On the grounds of a courthouse or correctional facility, a bail bondsman
32 or an agent of a bail bondsman may not:

1 (7) has participated, with or without the knowledge of an insurer, in
2 selling motor vehicle insurance without an actual intent to sell the insurance, as
3 evidenced by a persistent pattern of filing certificates of insurance together with or
4 closely followed by cancellation notices for the insurance;

5 (8) has been convicted by final judgment in any state or federal court
6 of a felony or crime involving moral turpitude;

7 (9) has knowingly participated in writing or issuing substantial
8 over-insurance of property insurance risks;

9 (10) has failed an examination required by this subtitle;

10 (11) has willfully failed to comply with or has willfully violated a proper
11 order, subpoena, or regulation of the Commissioner or the insurance regulatory
12 authority of another state;

13 (12) has failed or refused to pay over on demand money that belongs to
14 an insurer, insurance producer, or other person **OR GOVERNMENTAL UNIT** entitled to
15 the money;

16 (13) has otherwise shown a lack of trustworthiness or competence to act
17 as an insurance producer;

18 (14) is not or does not intend to carry on business in good faith and
19 represent to the public that the person is an insurance producer;

20 (15) has been denied a license or certificate in another state or has had
21 a license or certificate suspended or revoked in another state;

22 (16) has intentionally or willfully made or issued, or caused to be made
23 or issued, a statement that materially misrepresents or makes incomplete
24 comparisons about the terms or conditions of a policy or contract issued by an
25 authorized insurer, for the purpose of inducing or attempting to induce the owner of
26 the policy or contract to forfeit or surrender it or allow it to lapse in order to replace it
27 with another;

28 (17) has transacted insurance business that was directed to the
29 applicant or holder for consideration by a person whose license or certificate to engage
30 in the insurance business at the time was suspended or revoked, and the applicant or
31 holder knew or should have known of the suspension or revocation;

32 (18) has solicited, procured, or negotiated insurance contracts for an
33 unauthorized insurer, including contracts for nonprofit health service plans, dental
34 plan organizations, and health maintenance organizations;

1 (19) has knowingly employed or knowingly continued to employ an
2 individual acting in a fiduciary capacity who has been convicted of a felony or crime of
3 moral turpitude within the preceding 10 years;

4 (20) has forged another's name to an application for insurance or to any
5 document related to an insurance transaction;

6 (21) has improperly used notes or any other reference material to
7 complete an examination for a license;

8 (22) has failed to pay income tax or related interest or penalty under:

9 (i) an assessment under the Tax – General Article that is final
10 and no longer subject to review by the tax court; or

11 (ii) an order of the tax court that is final and no longer subject
12 to judicial review; [or]

13 (23) in providing information under § 10–118 of this subtitle regarding
14 the termination of an appointment with an insurer, has made an inaccurate statement
15 with actual malice; **OR**

16 **(24) HAS VIOLATED § 5–203(A)(5)(I) AND (II)1 OR § 5–210(B) OF**
17 **THE CRIMINAL PROCEDURE ARTICLE.**

18 10–301.

19 (a) In this subtitle the following words have the meanings indicated.

20 (b) “Bail bond” means a written obligation of a defendant, with or without a
21 surety or collateral security, that:

22 (1) is conditioned on the appearance of the defendant as required; and

23 (2) provides for the payment of a penal sum according to its terms.

24 (c) **(1)** “Bail bondsman” means [an authorized insurance producer of a
25 surety insurer] **AN INSURANCE PRODUCER WHO:**

26 **(I) IS LICENSED UNDER TITLE 10, SUBTITLE 1 OF THIS**
27 **ARTICLE TO SELL PROPERTY AND CASUALTY INSURANCE; AND**

28 **(II) PROVIDES BAIL BOND SERVICES.**

29 **(2) “BAIL BONDSMAN” DOES NOT INCLUDE:**

1 (V) SELLING A BAIL BOND;

2 (VI) SOLICITING A BAIL BOND;

3 (VII) FINANCING A BAIL BOND THROUGH A PREMIUM
4 FINANCE COMPANY IN ACCORDANCE WITH TITLE 23 OF THIS ARTICLE; OR

5 (VIII) OTHERWISE EFFECTUATING A BAIL BOND.

6 (g) (1) "Surety" means a person, other than the defendant, that
7 guarantees the appearance of the defendant by executing a bail bond.

8 (2) "Surety" includes [an uncompensated or accommodation surety] A
9 PERSON WHO PROVIDES ANY SERVICE IN THE BAIL BONDSMAN TRADE EVEN
10 WITHOUT COMPENSATION.

11 (h) "Surety insurer" means a person that, for compensation, directly or
12 through an authorized insurance producer, acts as a surety on a bail bond.

13 [10-302.

14 This subtitle does not apply to bail bondsmen that provide bail bondsman
15 services under § 5-203 of the Criminal Procedure Article.]

16 10-304.

17 (a) An individual must obtain a license before the individual [provides bail
18 bondsman services] ACTS AS A BAIL BONDSMAN in the State.

19 10-305.

20 [An] TO QUALIFY FOR A LICENSE, AN applicant [for a license must be an
21 individual who meets] SHALL MEET the requirements for acting as a property and
22 casualty insurance producer under Subtitle 1 of this title.

23 23-104.

24 (A) A PREMIUM FINANCE COMPANY MAY ENGAGE IN FINANCING BAIL
25 BONDS THROUGH AN AGREEMENT WITH A BAIL BONDSMAN LICENSED UNDER
26 TITLE 10, SUBTITLES 1 AND 3 OF THIS ARTICLE.

27 (B) THE COMMISSIONER SHALL ADOPT REGULATIONS REGULATING
28 FINANCE AGREEMENTS BETWEEN BAIL BONDSMEN LICENSED UNDER TITLE 10,

1 **SUBTITLES 1 AND 3 OF THIS ARTICLE AND PREMIUM FINANCE COMPANIES**
2 **REGISTERED UNDER THIS TITLE.**

3 SECTION 2. AND BE IT FURTHER ENACTED, That all laws or parts of laws,
4 public general or public local, inconsistent with this Act, are repealed to the extent of
5 the inconsistency.

6 SECTION 3. AND BE IT FURTHER ENACTED, That this Act does not affect
7 any bail bond that, on December 31, 2010, has not been discharged and does not affect
8 the forfeiture of any bail bond on or before December 31, 2010, or any enforcement
9 action pending with regard to such forfeiture or any action pending as to the striking
10 of such forfeiture.

11 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect
12 January 1, 2011.