

# ARIZONA BAIL BONDSMEN ASSOCIATION

1012 N 7<sup>th</sup> Ave Phoenix Arizona 85007

John Burns  
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480-560-4390

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## *Proposed Amendment*

*Bill 20-340.03*

**Bill #1**

**SPONSORED BY REPRESENTATIVE GOWAN**

**Last Update: November 28, 2012**

### 20-340.03. Bail bond agent prohibitions

- A. A bail bond agent shall not:
1. Suggest or advise the employment of or name for employment any particular attorney to represent the agent's principal.
  2. Solicit business in or around any place where prisoners are confined or in or around any court.
  3. Receive or collect for an attorney any monies or other items of value for any attorney fee, cost or other purpose on behalf of an arrestee, unless a receipt is given.
  4. For any purpose, directly or indirectly, enter into an arrangement of any kind or have an understanding with any person to inform or notify any bail bond agent directly or indirectly of any of the following:
    - a. The existence of a criminal complaint.
    - b. The fact of an arrest.
    - c. The fact that an arrest of any person is pending or contemplated.
    - d. Any information pertaining to matters described in this paragraph or to the persons involved.
  5. Participate in the capacity of an attorney at a trial or hearing of a person on whose bond the bail bond agent is the surety.
  6. Accept anything of value from a principal except the premium and expenses. The bail bond agent may accept collateral security or other indemnity from the principal or on behalf of the principal that the bail bond agent shall return on final termination of liability on the bond unless the collateral has been forfeited because the defendant did not appear in court. The collateral security or other indemnity required by the bail bond agent must be reasonable in relation to the amount of the bond.
  7. Give, authorize, sign or countersign in blank any power of attorney to bonds unless the authorized person is a licensed bail bond agent directly employed by the bail bond agent giving the power of attorney.
  8. Advertise as or claim to be a surety company.
  9. Employ or assist in the employment of any person who has been convicted in any jurisdiction of theft or of any felony or of any crime involving carrying or the possession of a deadly weapon or dangerous instrument. This paragraph does not apply to a person whose felony conviction has been set aside or whose civil rights have been restored because of a felony conviction, except for a conviction of theft or of any crime involving carrying or the possession of a deadly weapon or dangerous instrument.
- B. For the purposes of subsection A, paragraph 9, "employment" means working for a salary, a commission or under contract or owning, operating or controlling any business or agency that solicits, services or assists in any way in dealing in bail bonds.
- C. Law enforcement, adjudication and prosecution officials and the officials' employees, attorneys-at-law, officials authorized to admit to bail and state

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and county officers shall not be bail bond agents and shall not directly or indirectly receive any benefits from the execution of any bail bond. This section does not prohibit a bail bond agent from hiring counsel or asking assistance of a law enforcement officer.

- D. In any bail transaction or in connection with any bail transaction, a bail bond agent shall not directly or indirectly charge or collect monies or other valuable consideration from any person except for the following purposes:
1. To pay the premium at the rates that are established by the surety insurer and that are approved by the director or agreed upon by all parties prior to bond posting in writing.
  2. To provide collateral.
  3. To be reimbursed for actual and reasonable expenses incurred in connection with the individual bail transaction.
  4. All other fees shall be agreed upon in writing prior to posting of any surety bond for management or recovery of the defendant.
- E. To pay prorated premium renewal for each calendar month after one year.
- F. To pay electronic monitoring, drug testing, contact management, vehicle storage or use or any other fees agreed upon by all parties in writing.
- G. A bail agent shall not post any surety bond unless a signed indemnitors contract has been agreed upon. This included but not limits to incarcerated person, the sheriff or keeper of the jail shall allow access to licensed bail agent for this purpose.
- H. A surety shall not be responsible to refund any premiums or fees associated with the bail transaction if surety places defendant back in custody for any of the following reasons.
1. Test positive for a controlled substance
  2. Fails to follow court order
  3. Fails to follow bail bond contract to include but not limit to call ins, walk ins, electronic monitoring, collateral missing or impounded, or fails to pay the premium or fees according to the bail contract, or any other provision of the bail contract agreed upon in writing.