

# ARIZONA BAIL BONDSMEN ASSOCIATION

842 E Isabella Ave #101

Mesa AZ 85204

480-560-4390

John Burns  
President

Leigh Dunham  
Treasurer

*Proposed Amendment  
Exoneration of Appearance bond-Remission*

**TAB 3**

**SPONSORED BY SENATOR ANTENORI**

Last Updated: **October 10, 2011**

Sec. 3. Section 13-3974, Arizona Revised Statutes, is amended to read:

**13-3974. Exoneration of appearance bond - REMISSION**

- A. A surety ~~may~~ **SHALL** be relieved from liability on an appearance bond if the surety surrenders the defendant into the custody of the sheriff of the county in which the prosecution is pending **PRIOR TO FAILURE TO APPEAR** and the sheriff **OR BAIL AGENT** reports the surrender to the court **ON A SURRENDER AFFADAVIT**.
- B. **A SURETY OR LAW ENFORCEMENT THAT SURRENDERS THE DEFENDANT WITHIN 90 DAYS AFTER A FAILURE TO APPEAR SHALL BE RELIEVED FROM LIABILITY ON APPEARANCE BOND.**
- C. **A SURETY OR BAIL AGENT CAN REQUEST BY AFFADAVIT 14 DAYS PRIOR TO FORFEITURE HEARING TO THE COURT FOR AN ADDITIONAL 90 DAYS TO LOCATE AND SURRENDER THE DEFENDANT TO CUSTODY. THE JUDICIAL OFFICER SHALL GRANT THE EXTENSION IF THE SURETY CAN SHOW THEY ARE ACTIVELY SEARCHING FOR THE DEFENDANT. TEN PERCENT (10%) OF THE SECURED APPEARANCE BOND SHALL BE FORFEITED FOR THE EXTENSION.**
- D. **A SURETY THAT CANNOT LOCATE DEFENDANT AND RETURN TO CUSTODY WITHIN 180 DAYS FROM THE DATE OF THE FAILURE TO APPEAR WILL PAY THE REMAINING 90% OF THE SECURED APPEARANCE BOND.**
- E. **A SURETY WHO SURRENDERS THE DEFENDANT AFTER THE 180 DAYS FROM THE DATE OF THE FAILURE TO APPEAR IS ENTITLED TO REMISSION OF 50% OF THE BOND AMOUNT IF SURRENDERED INTO CUSTODY WITHIN ONE YEAR FROM THE DATE OF THE FAILURE TO APPEAR.**

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## Conditional Early Release by Bond Act Post Conviction Surety Bonds

**“Conditional Early Release by Bond Act for Post Conviction Surety Bonds” authorizes a judicial officer to allow early release once a cash or surety bond has been posted by an authorized licensed bail bond agent or surety. Recommendation can be made by the Department of Corrections for early release for non-violent non-sexual offenders.**

**Judicial officer will review the recommendation within fourteen (14) days from date of receipt FILING. Any objections from victim(s) or prosecutors must be received within fourteen (14) days from the date received FILED by the clerk of the court.**

**Principals that are recommended must have no behavioral infractions, and have complied with any court-ordered programs while in custody. The amount of the post conviction bond shall be determined by judicial officer. The length of the bond is not to exceed five years.**

- (1) 'Bail bond agency' means a bail bond agency that is qualified pursuant to the provisions of ARS Code 20-340.01.
- (2) 'Breach' means any condition of release violated by the principal.
- (3) 'Charge' means the amount of money the surety charges to write the bond. The charges must not be less than ten percent annually of the aggregate penalty amounts which charge shall be fully earned when the bond is written.
- (4) 'Clerk of court', unless otherwise specified, means the clerk of the superior court of the county in the state where the surety or bail bond agency is currently writing or obligated on the majority of those bonds which he has written or on which he is obligated pursuant to the provisions of this article.
- (5) 'Conditions' means such conditions as the releasing authority may impose as a prerequisite to being released from custody.
- (6) 'Department of Corrections' or 'department' means the Arizona Department of Corrections or Sheriff of the County Jail.
- (7) 'Early release bond' means the written undertaking delivered by the surety to the releasing authority and describing the terms and conditions of the surety's duties.
- (8) 'Mandatory conditions' mean those conditions the releasing authority must place upon the principal as a condition to early release.
- (9) 'Penalty breach' means the amount of money to be paid by the surety to the state upon the surety's failure to meet the requirements under the provisions of this article. The penalty breach shall be equal to the face amount of the bond. There can be two penalty breaches: (1) an amount of money paid by the surety upon breach of a release condition; and (2) an amount of money paid by the surety if the principal is not back in custody within a given amount of time following the breach of a release condition.

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- (10) 'Principal' means a person released pursuant to the provisions of this article. No person serving a life sentence or who has been convicted of a violent crime, or who is a sexual offender shall be eligible for an early release bond.
- (11) 'Prison' means a correctional facility operated by the department or Sheriff of the County Jail.
- (12) 'Prison system' means the prisons operated by the department or Sheriff of the County Jail.
- (13) 'Prisoner' means every person who is serving a criminal sentence under commitment to the department, including persons serving sentences in local detention facilities designated under the provisions of applicable law and regulations.
- (14) 'Prison system population' means the total number of prisoners housed in the prisons operated by the department or County Sheriff.
- (15) 'Releasing authority' means Judicial Officer authorized to sign release order.**
- (16) 'Revocation of bond' means the use and effectiveness of the bond has ceased. The releasing authority may revoke the bond upon a breach or continue the bond by nullifying the breach. The bond may be revoked at any time the releasing authority or surety determines that the principal is not complying with the conditions of the bond.
- (17) 'Surety' means an insurance company licensed under the laws of Arizona to execute bonds filed in criminal cases.
- (18) "Collateral" means property or cash pledged to the surety for the entire amount of the bond.
- (19) 'Indemnitor' means Guarantor of the bond amount.
- (A) Option One:** Upon the decision of the releasing authority to release an inmate, the releasing authority may condition the release of a principal by requiring the posting of an early release bond by cash or surety. The releasing authority may set conditions of release, which conditions shall be appended to and made part of the bond. The conditions are discretionary with the releasing authority and shall be appropriate to the character and circumstances of the principal and the circumstances of the principal's release.
- Option Two:** Upon decision of the department to recommend a principal for early release bond by surety program to judicial officer in which jurisdiction the principal was sentenced, said department shall recommend conditions of release which shall be made part of the bond. The conditions shall be appropriate to the character and circumstances of the principal and the circumstances of the principal's release. The principal must serve at least 50% of the minimum sentence to be eligible for early release bond.

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The conditions may, unless otherwise specified, be any of the following, but are not limited to these conditions and are to include additional conditions imposed by the releasing authority:

- (1) The principal shall be subject to drug or alcohol testing as specified in the bond;
- (2) The principal shall be required to participate in specified recovery programs;
- (3) The principal shall not contact, visit, or communicate directly with a witness or a victim involved in the principal's conviction;
- (4) The principal shall obtain and retain employment;
- (5) The principal shall be on home detention by way of a global positioning satellite (GPS) monitoring device that has been approved by the state;
- (6) The principal shall abide by specified travel restrictions;
- (7) The principal shall make specified periodic restitution payments;
- (8) The principal shall pay specified fines and court costs;
- (9) The principal shall perform specified community services;
- (10) The principal shall obtain such education as specified in the bond;
- (11) The principal shall participate in specified family or third party involvement.

**(12) The principal's compliance to all terms and conditions shall be reported to FILED WITH the clerk of the court on a monthly basis for judicial review.**

- (B) The following are mandatory conditions and shall be imposed on the principal as a matter of law:
- (1) The principal shall pay the surety's charges; for drug testing, electronic monitoring and a weekly contact management fee.
  - (2) The principal shall personally report to the surety at the time and in the manner as directed by the releasing authority and the surety.
- (C) A surety or bail bond agency that maintains a physical location in Arizona that is accessible to the public and that has been qualified as a bail bond agency or surety pursuant to ARS Code 20-340.01 for at least three years, may post an early release bond pursuant to this article. The surety or bail bond agency must register with the local clerk of court and pay an annual fee of five hundred dollars.

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- (D) The terms of the bond posted by the surety or the bail bond agency shall be in writing in an amount to be determined by the releasing authority and shall be made in favor of and payable to the county general fund from where the defendant committed the offense. The term of the bond shall be determined by the releasing authority, but shall not be for a period of more than five years.
  - (E) The releasing authority shall give the surety written notice of any breach of condition within five days of its knowledge of the breach.
  - (F) If, within one hundred eighty calendar days from the date of receipt of written notice by the releasing authority that the principal has failed to meet one or more of the conditions of the principal's early release, the principal has been placed back in custody, whether by the surety or another, then the bond shall be exonerated.
  - (G) The surety can surrender the principal to any County Sheriff if the principal is not following the terms and conditions of the early release bond. The judicial officer shall exonerate the bond if the surety surrenders the defendant prior to any notices from the releasing authority.**
  - (H) If the indemnitor that is pledging the collateral for the early release bond revokes the collateral in writing, the surety can return the principal to custody of the County Sheriff.**
- 20) The surety shall pay for penalty breaches:
- (A) Upon a breach of a condition by the principal; or
  - (B) Upon the principal not being back in custody within the prescribed one hundred eighty days.
  - (C) Upon a breach of subsection (A), the surety shall pay ten percent of the face amount of the bond directly to the county treasurer to be deposited to the general fund. Upon a breach of subsection (B), the surety shall pay the remaining ninety percent of the face amount of the bond directly to the county treasurer to be deposited in the general fund.
- 21) At any time after receiving a notice of breach by the principal, the surety may arrest the principal and surrender him to the nearest county jail. If the principal is surrendered within one hundred eighty calendar days of receipt of the notice of breach, the bond shall be exonerated. Any and all costs shall be paid by the Indemnitor that pledged the collateral of the entire bond amount. To include recovery fees, past due balances owed to the Surety for all fees charged.

## Conclusion

If ten thousand state and federal prisoners qualify for this program, it would be a savings to the State of Arizona of approximately four hundred and twenty million dollars. Allow the Commercial Bail Industry with a proven track record save millions for the taxpayers.

We will be distributing this to all Senators and House Representatives to gain support.

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*Proposed Amendment  
Premiums; Fees*

**TAB 5**

**SPONSORED BY SENATOR MCCOMISH**

Last Updated: **October 6, 2011**

*Premiums; Fees*

Sec. 12. Title 20, chapter 2, article 3.4, Arizona Revised Statutes, is amended by adding new sections 20-340.06 and 20-340.07, to read:

## **20-340.06. Premiums; fees**

**A. A BAIL BOND AGENT SHALL CONSPICUOUSLY DISPLAY THE BAIL BOND PREMIUM SCHEDULE AT EACH BUSINESS LOCATION. THE AGENT SHALL PROVIDE A FEE DISCLOSURE STATEMENT THAT INCLUDES ALL PREMIUM AND FEE SCHEDULES TO THE POTENTIAL INDEMNITOR.**

**B. THE SURETY INSURER OR THE BAIL BOND AGENT SHALL RETURN THE BAIL BOND INSURANCE PREMIUM TO THE INDEMNITOR IF THE BAIL BOND AGENT SURRENDERS AN ARRESTEE TO CUSTODY BEFORE THE TIME SPECIFIED IN THE BAIL BOND UNLESS:**

- 1. THE ARRESTEE'S RETURN TO CUSTODY WAS REQUIRED BY LAW.**
- 2. THE ARRESTEE VIOLATED A LAWFUL PROVISION OF THE BAIL BOND AGREEMENT OR ANY BAIL BOND TERMS AND CONDITIONS OF THE BAIL BOND AGENT. TO INCLUDE UNPAID PREMIUM AND OR FEES.**
- 3. THE ARRESTEE MATERIALLY MISREPRESENTED INFORMATION ON THE APPLICATION FOR BAIL BOND INSURANCE THAT CAUSED THE RISKS ASSOCIATED WITH THE ARRESTEE'S RELEASE TO BE MATERIALLY GREATER THAN THE BAIL BOND AGENT OR SURETY BELIEVED THEY WOULD BE.**
- 4. THE ARRESTEE IS CHARGED WITH A NEW OFFENSE AND THE BAIL BOND AGENT NO LONGER WANTS TO BE RESPONSIBLE FOR THE ARRESTEE AND THE BAIL BOND ISSUED.**
- 5. THE ARRESTEE THREATENS OR INTIMIDATES OR HIRES ANOTHER PERSON TO THREATEN OR INTIMIDATE A BAIL BOND AGENT OR AN EMPLOYEE OF THE BAIL BOND AGENT. FDA APPROVED TEST UNDER ARIZONA STATUTES.**
- 6. THE ARRESTEE TESTS POSITIVE FOR A CONTROLLED SUBSTANCE IN A TEST ADMINISTERED BY THE BAIL BOND AGENT.**
- 7. AN INDEMNITOR REVOKES THE COLLATERAL OR FAILS TO PAY THE AGREED PREMIUMS AND FEES ON THE PAYMENT SCHEDULE.**
- 8. THE SURETY OR BAIL BOND AGENT SHALL CHARGE NO LESS THAN THE FIFTEEN PERCENT OF THE BOND AMOUNT OF THE SECURED APPEARANCE BOND FOR THE PREMIUM ANNUALLY.**
- 9. BAIL BOND AGENT SHALL NOT ACCEPT ANY PREMIUM OR COMMISSION FROM ANY OUT OF STATE BAIL BONDSMAN TO POST A BOND FOR A NON-ARIZONA BAIL BONDSMAN OR ANY SURETY, TRANSFER BONDS ARE PROHIBITED FROM NON-ARIZONA LICENSED BONDSMEN.**

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*Proposed Amendment*

*Release on bailable offenses before trial; definition*

**TAB 1**

**SPONSORED BY SENATOR ANTENORI**

Last Update: **October 6, 2011**

Sec. 1. Section 13-3967, Arizona Revised Statutes, is amended to read:

**13-3967. Release on bailable offenses before trial; definition**

A. At his appearance before a judicial officer, any person who is charged with a public offense that is bailable as a matter of right shall be ordered released pending trial on his own recognizance or on the execution of bail in an amount specified by the judicial officer.

**THE JUDICIAL OFFICER SHALL ALLOW A CASH OR SECURED APPEARANCE BOND IN ALL CASES THAT BAIL IS PERMITTED. CASH ONLY BOND MAY BE ORDERED BY JUDICIAL OFFICER IF THE DEFENDANT HAS PREVIOUSLY FAILED TO APPEAR OR IS IN CUSTODY FOR UNPAID CHILD SUPPORT OR UNPAID FINES OR FEES.**

B. In determining the method of release or the amount of bail, the judicial officer, on the basis of available information, shall take into account all of the following:

1. The views of the victim.
2. The nature and circumstances of the offense charged.
3. The weight of evidence against the accused.
4. The accused's family ties, employment, financial resources, character and mental condition.
5. The results of any drug test submitted to the court.
6. Whether the accused is using any substance if its possession or use is illegal pursuant to chapter 34 of this title.
7. Whether the accused violated section [13-3407](#), subsection A, paragraph 2, 3, 4 or 7 involving methamphetamine or section [13-3407.01](#).
8. The length of residence in the community.
9. The accused's record of arrests and convictions.
- 10. IF THE ACCUSED HAS PRIOR FELONY CONVICTIONS WITHIN SEVEN YEARS OF THE NEW CRIMINAL OFFENSE THAT ARE VERIFIED PRIOR TO INITIAL APPEARANCE COURT, A MINIMUM OF A TWO THOUSAND FIVE HUNDRED DOLLAR (\$2500) CASH OR SECURED APPEARANCE BOND SHALL BE ORDERED BY THE JUDICIAL OFFICER.**
- 11. The accused's record of appearance at court proceedings or of flight to avoid prosecution or failure to appear at court proceedings THAT ARE VERIFIED PRIOR TO INITIAL APPEARANCE COURT.**
- 12. IF THE ACCUSED HAS PRIOR FAILURE TO APPEAR A MINIMUM BOND AMOUNT OF ONE THOUSAND DOLLAR (\$1,000) CASH OR SECURED APPEARANCE BOND SHALL BE ORDERED BY THE JUDICIAL OFFICER.**
13. Whether the accused has entered or remained in the United States illegally.
14. Whether the accused's residence is in this state, in another state or outside the United States.

C. If a judicial officer orders the release of a defendant who is charged with a felony either on his own recognizance or on bail, the judicial officer shall condition the defendant's release on the defendant's good behavior while so released.

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## *Proposed Amendment*

### *Release on bailable offenses before trial; definition*

On a showing of probable cause that the defendant committed any offense during the period of release, a judicial officer may revoke the defendant's release pursuant to section [13-3968](#).

D. After providing notice to the victim pursuant to section [13-4406](#), a judicial officer may impose any of the following conditions on a person who is released on his own recognizance or on bail:

1. Place the person in the custody of a designated person or organization agreeing to supervise him.
2. Place restrictions on the person's travel, associates or place of abode during the period of release.
3. Require the deposit with the clerk of the court of cash or other security, such deposit to be returned on the performance of the conditions of release.
4. Prohibit the person from possessing any dangerous weapon or engaging in certain described activities or indulging in intoxicating liquors or certain drugs.
5. Require the person to report regularly to and remain under the supervision of an officer of the court.
6. Impose any other conditions deemed reasonably necessary to assure appearance as required including a condition requiring that the person return to custody after specified hours.

E. In addition to any of the conditions a judicial officer may impose pursuant to subsection D of this section, the judicial officer shall impose both of the following conditions on a person who is charged with a felony violation of chapter 14 or 35.1 of this title and who is released on his own recognizance or on bail:

1. Electronic monitoring where available.
2. A condition prohibiting the person from having any contact with the victim.

F. The judicial officer who authorizes the release of the person charged on his own recognizance or on bail shall do all of the following:

1. Issue an appropriate order containing statements of the conditions imposed.
2. Inform the person of the penalties that apply to any violation of the conditions of release.
3. Advise the person that a warrant for his arrest may be issued immediately on any violation of the conditions of release, including the failure to submit to deoxyribonucleic acid testing ordered pursuant to paragraph 4 of this subsection.
4. If the person is charged with a felony or misdemeanor offense listed in section [13-610](#), subsection O, paragraph 3 and is summoned to appear, order the person to report within five days to the law enforcement agency that arrested the person or to the agency's designee and submit a sufficient sample of buccal cells or other bodily substances for deoxyribonucleic acid testing and extraction. If a person does not comply with an order issued pursuant to this subsection, the court shall revoke the person's release.

G. At any time after providing notice to the victim pursuant to section [13-4406](#), the judicial officer who orders the release of a person on any condition specified in this section or the court in which a prosecution is pending may amend the order to employ additional or different conditions of release, including either an increase or reduction in the amount of bail.

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## *Proposed Amendment*

### *Release on bailable offenses before trial; definition*

**On application, the defendant shall be entitled to have the conditions of release reviewed by the judicial officer who imposed them or by the court in which the prosecution is pending. Reasonable notice of the application shall be given to the county attorney and the victim.**

**H. Any information that is stated or offered in connection with any order pursuant to this section need not conform to the rules pertaining to admissibility of evidence in a court of law.**

**I. This section does not prevent the disposition of any case or class of cases by forfeiture of bail or collateral security if such disposition is authorized by the court.**

**J. A judicial officer who orders the release of a juvenile who has been transferred to the criminal division of the superior court pursuant to section 8-327 or who has been charged as an adult pursuant to section [13-501](#) shall notify the appropriate school district on the release of the juvenile from custody.**

**K. For the purposes of this section and section [13-3968](#), "judicial officer" means any person or court authorized pursuant to the constitution or laws of this state to bail or otherwise release a person before trial or sentencing or pending appeal.**

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## *Proposed Amendment*

*Bail bond agents; licensure; business entities; place of business;  
receipt; maintenance of records; Bail agent education*

**TAB 7**

**SPONSORED BY SENATOR MCCOMISH**

Last Updated: **October 6, 2011**

Sec. 20. Section 20-340.01, Arizona Revised Statutes, is amended to read:

**20-340.01. Bail bond agents; licensure; business entities; place of business; receipt; maintenance of records; Bail agent education**

A. A person shall not act as a bail bond agent in this state unless the person is licensed by the director in accordance with this article. An applicant for a bail bond agent license shall submit an affidavit attesting to the applicant's residency in this state for at least one year immediately preceding the date of application.

B. Each applicant for bail bond agent license shall submit a full set of fingerprints to the Department of Insurance for the purpose of obtaining state and federal criminal records check pursuant to Section 41-1750 and Public Law 92-544. The Department of Public Safety may exchange this fingerprint data with the Federal Bureau of Investigation. The Department of Insurance shall not issue a license until it receives the state and federal criminal history records check and the applicant is qualified for licensure.

C. The director shall not license a resident business entity as a bail bond agent unless each owner and shareholder is individually licensed as a bail bond agent.

D. A person who is licensed as a bail bond agent in this state is not authorized in this state to transact civil bonds in connection with contracts, administrative proceedings, or other noncriminal matters on behalf of a surety insurer unless the bail bond agent is also licensed as a property and casualty producer in this state.

E. Each bail bond agent shall have and maintain a place of business in this state that is accessible to the public and where the bail bond agent principally conducts transactions under the agent's license.

F. As a minimum requirement for permanent office records, each bail bond agent and general lines agent who is engaged in the bail bond business shall maintain a daily bond register that is the original and permanent record of all bonds or undertakings executed by the licensee and that states the:

1. Number of the power of attorney form
2. Date the bond was executed
3. Name of the principal
4. Amount of the bond
5. Premium charged
6. Premium reported to the surety company
7. Security or collateral received

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## *Proposed Amendment*

*Bail bond agents; licensure; business entities; place of business;  
receipt; maintenance of records; Bail agent education*

8. Date the security or collateral was received and the date released
9. Indemnity agreements
10. Disposition of the bond
11. Date of the disposition

**G. Each bail bond agent and general lines agent who is engaged in the bail bond business and who accepts monies or any other consideration for any bail bond undertaking shall for each payment received give to the person paying the monies or giving the consideration a pre-numbered receipt as evidence of payment. The receipt must state the date, the name of the principal, a description of the consideration or amount of monies received and the purpose for which received, the number of the power of attorney form attached to the bond, the penal sum of the bond, the name of the person making the payment or giving the consideration and the terms under which the monies or other consideration shall be released. Each bail bond agent shall retain a duplicate copy of each receipt issued as part of the agent's records.**

**H. The bail bond agent shall keep at the agent's place of business the usual and customary records pertaining to transactions made under the license. The licensee shall keep all the records as to any particular transaction available and open to the inspection of the director at any business time during the three years immediately after the date of completion of the transaction.**

**I. The director may examine the business practices, books and records of any bail bond agent as often as the director deems appropriate. The bail bond agent shall pay the costs incurred for the examination.**

**J. PRIOR TO A BAIL AGENT BEING ARMED, THE BOND AGENT MUST COMPLETE A GUN SAFETY COURSE ADMINISTERED BY AN AUTHORIZED DPS INSTRUCTOR AT THE LICENSEE'S EXPENSE.**

**K. AT A MINIMUM, BAIL AGENTS MUST COMPLETE EIGHTY (80) HOURS OF ON THE JOB TRAINING WITH A LICENSED BAIL BOND AGENT THAT HAS BEEN LICENSED FOR AT LEAST ONE YEAR, PRIOR TO BEING LICENSED BY THE DEPARTMENT OF INSURANCE.**

**L. AT A MINIMUM, BAIL AGENTS MUST COMPLETE SIXTEEN (16) HOURS OF CONTINUED EDUCATION PER YEAR AS PRESCRIBED AND APPROVED BY THE DIRECTOR.**

**M. A BAIL AGENT SHALL NOT POST ANY BOND UNLESS A SIGNED INDEMNITOR'S CONTRACT HAS BEEN AGREED UPON. THIS INCLUDES POSTING A BOND DIRECTLY FOR A DEFENDANT THAT IS IN CUSTODY WITHOUT THE DEFENDANT SIGNING AS THE INDEMNITOR. THE COUNTY OR CITY JAIL WILL GRANT ACCESS TO BAIL BOND AGENTS FOR THIS PURPOSE.**

**N. AT NO TIME SHALL A BAIL BOND AGENT PLACE A DEFENDANT INTO RESTRAINTS UNLESS THE DEFENDANT IS BEING RETURNED TO CUSTODY.**

**O. THE DEPARTMENT WILL AUTHORIZE A UNIFORM ID CARD TO ALL LICENSED BAIL BOND AGENTS AT THE LICENSEE EXPENSE. THE DEPARTMENT WILL ESTABLISH A STATEWIDE DESIGN.**

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*Proposed Amendment  
Bail Bond Agent List*

**TAB 2**

**SPONSORED BY REPRESENTATIVE GOWAN**

Last Update: **October 6, 2011**

Sec. 4. Section 13-3969, Arizona Revised Statutes, is amended to read:

**13-3969. Bail bond agent lists; prohibition; rotation; acceptance of bonds**

- A. The sheriff or keeper of the **A COUNTY OR CITY** jail shall provide to a person charged with a bailable offense in his custody a list containing the names and telephone numbers of those persons authorized to post bail bonds in the county. Persons authorized to post bail bonds in the county may be listed under their own name or a trade name if the trade name is registered with the secretary of state. The list shall be updated annually **MONTHLY. THE CLERK OF COURT WILL ELECTRONICALLY TRANSMIT THE ROTATING LIST MONTHLY TO COUNTY AND CITY JAILS.**
- B. The sheriff or keeper of the **A COUNTY OR CITY** jail shall not recommend any authorized bail bond agent, **PRIVATE PERSON OR PRIVATE COMPANY** to a person charged with a bailable offense in the sheriff's or keeper's custody. ~~and rotate quarterly the order of the names and telephone numbers of the authorized bail bond agents listed.~~
- C. The sheriff or keeper of the **A COUNTY OR CITY** jail in the county in which criminal charges are filed or in which the person charged is jailed shall accept the bond from any person.
- D. **THE SHERIFF OR KEEPER OF A COUNTY OR CITY JAIL SHALL ACCEPT THE SECURED APPEARANCE BOND FROM EMPLOYEE OF THE BAIL BOND AGENT WITH THE PROPER BAIL AGENCY IDENTIFICATION.**
- E. **NO PRIVATE COMPANY SOLICITATION FOR THE RELEASE OF A DEFENDANT IN CUSTODY SHALL BE ALLOWED IN OR AROUND WHERE PRISONERS ARE HOUSED OR ANY COURT. ALL BAIL OR BAIL BOND SOLICITATION WITHIN 200 FEET IS CHARABLE BY A CLASS 6 MISDEMEANOR WITH A \$500 FINE AND SUSPENSION OF BAIL BOND LICENSE UP TO 180 DAYS FOR 1<sup>ST</sup> TIME OFFENSES. THE FINE FOR SECOND TIME OFFENSES IS \$1000 AND A ONE YEAR SUSPENSION. SOLICITATION SHALL INCLUDE BUT NOT LIMITED TO HANDING OUT BUSINESS CARDS, VERBALLY ASKING IF THEY NEED A BAIL BOND, HANDING OUT ANY PRINTED MATERIAL, OR RECRUITING ANY THIRD PARTY TO CONDUCT SAME.**
- F. **THE SHERIFF OR KEEPER OF A COUNTY OR CITY JAIL CAN ACCEPT SECURED APPEARANCE BONDS, CASH, CASHIERS CHECK OR MONEY ORDERS DIRECTLY FOR THE RELEASE OF A DEFENDANT.**

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*Proposed Amendment*

*Bail Recovery Agent Prohibitions; Criminal Records Checks*

**TAB 6**

**SPONSORED BY SENATOR MCCOMISH**

Last Updated: **October 6, 2011**

*Bail Recovery Agent Prohibitions; Criminal Records Checks*

Sec. 3. Section 20-340.04, Arizona Revised Statutes, is amended to read:

**20-340.04. Bail recovery agent prohibitions; criminal records checks**

A. No person who has been convicted in any jurisdiction of theft, any felony or any crime involving the carrying or illegal use or possession of a deadly weapon or dangerous instrument may act as a bail recovery agent.

B. A person shall submit a full set of fingerprints to the department before acting as a bail recovery agent and shall submit a new set of fingerprints on or before September 1 of every third year after initial identification by the bail bond agent in the report that is filed with the director pursuant to section 13-3885, subsection C. The department of insurance shall submit the fingerprints to the department of public safety for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. The fingerprint processing fee collected by the department shall be an amount that does not exceed the cost to the department that is charged by the federal bureau of investigation for the fingerprint processing to obtain federal criminal history record information. The department of public safety may exchange this fingerprint data with the federal bureau of investigation. The department of public safety shall provide the criminal history record information to the director pursuant to section 41-1750.

C. Any person who acts as a bail recovery agent on behalf of any bail bond agent and any person who conducts any action relating to a bail recovery or apprehension must be identified by the bail bond agent in the report that is filed with the director pursuant to section 13-3885, subsections C and D.

D. A bail bond agent may not employ a bail recovery agent who does not comply with this section and who has not been identified by the bail bond agent in the report that is filed with the director pursuant to section 13-3885, subsection C. A bail bond agent who is not licensed in this state shall contract with a bail bond agent in this state to retain the services of a bail recovery agent in this state.

**E. RESIDENCY REQUIREMENT OF ONE YEAR**

**F. FULL CRIMINAL BACKGROUND CHECK PRIOR TO ISSUANCE OF A LICENSE OR REGISTRATION.**

**G. DEPARTMENT OF INSURANCE WILL ESTABLISH A TEST OF BASIC SKILLS FOR BAIL RECOVERY AGENTS**

**H. DEPARTMENT OF INSURANCE WILL ESTABLISH A FEE FOR TESTING AND REGISTRATION FOR ALL BAIL RECOVERY AGENTS**

# **ARIZONA BAIL BONDSMEN ASSOCIATION**

842 E Isabella Ave #101

Mesa AZ 85204

480-560-4390

John Burns  
President

Leigh Dunham  
Treasurer

## *Proposed Amendment*

### *Bail Recovery Agent Prohibitions; Criminal Records Checks*

**I. MINIMUM AGE OF 21 YEARS OLD**

**J. MUST HAVE HIGH SCHOOL DIPLOMA OR GENERAL EDUCATION DIPLOMA**

**~~K. MUST COMPLETE AN EIGHT HOUR GUN SAFETY COURSE WITH AN AUTHORIZED FIREARMS SAFETY INSTRUCTOR THAT IS CERTIFIED BY DEPARTMENT OF PUBLIC SAFETY.~~**

***K. AT LEAST SIXTEEN (16) HOURS OF INITIAL FIREARMS INSTRUCTION AND EIGHT (8) HOURS ANNUAL CONTINUING FIREARMS INSTRUCTION IN THE USE OF THE WEAPON USED BY THE BAIL RECOVERY AGENT IS REQUIRED IF A FIREARM IS USED WITHIN THE SCOPE OF EMPLOYMENT. ALL FIREARMS TRAINING AND QUALIFICATIONS SHALL BE CONDUCTED BY A FIREARMS INSTRUCTOR CERTIFIED BY THE DEPARTMENT OF PUBLIC SAFETY AND SHALL BE COMPLETED BEFORE THE BAIL RECOVERY AGENT IS ASSIGNED TO ANY POSITION REQUIRING THE CARRYING OF A FIREARM. THE LICENSEE SHALL PROVIDE A MONTHLY REPORT TO THE DEPARTMENT OF PUBLIC SAFETY IDENTIFYING ALL ARMED BAIL RECOVERY AGENTS EMPLOYED BY THE AGENCY.***

**L. THE DEPARTMENT WILL AUTHORIZE A UNIFORM ID CARD TO ALL LICENSED BAIL RECOVERY AGENTS AT THE LICENSEE EXPENSE. THE DEPARTMENT WILL ESTABLISH A STATEWIDE DESIGN.**

**M. AT A MINIMUM, PRIOR TO BEING LICENSED OR REGISTERED, AGENT MUST COMPLETE 120 HOURS OF ON THE JOB TRAINING WITH A LICENSED OR REGISTERED BAIL RECOVERY AGENT THAT HAS BEEN LICENSED OR REGISTERED FOR AT LEAST A PERIOD OF 24 MONTHS. PRIOR LAW ENFORCEMENT OR MILITARY POLICE EXPERIENCE OF A MINIMUM OF TWO YEARS CAN QUALIFY FOR A LICENSE REGISTRATION WITHOUT ON THE JOB TRAINING AND WHO IS QUALIFIED FOR ALL OTHER PROVISIONS.**

**N. A BAIL BOND AGENT MAY NOT EMPLOY A BAIL RECOVERY AGENT WHO IS A PEACE OFFICER, OR RESERVE DEPUTY, ACTIVELY CERTIFIED BY THE ARIZONA POST (PEACE OFFICER STANDARDS AND TRAINING BOARD).**

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*Proposed Amendment  
Bond of Bail Bond Agents*

**TAB 4**

**SPONSORED BY SENATOR MCCOMISH**

Last Updated: **October 6, 2011**

Sec. 3. Section 20-340.02, Arizona Revised Statutes, is amended to read:

**20-340.02. Bond of bail bond agents**

A. Each applicant for a bail bond agent's license or license renewal shall file with the application and shall maintain in force while licensed a bond in favor of this state executed by a surety insurer authorized to do business in this state. The bond may be continuous in form, and total aggregate liability on the bond shall be at least ~~ten thousand dollars~~ **ONE HUNDRED THOUSAND DOLLARS**. The applicant shall place the bond on deposit with the state treasurer through the director's office. The bond shall be conditioned on full accounting and due payment to the person entitled to the bond of monies coming into the bail bond agent's possession as an incident to bail bond transactions under the license.

B. The bond remains in force until released by the director or until cancelled by the surety. Without prejudice to any liability previously incurred, the surety may cancel the bond on thirty days' advance written notice filed with the director.

**C. IF BOND IS CANCELLED OR SUSPENDED THE BOND AGENT'S LICENSE SHALL BE SUMMARILY SUSPENDED ON THE EFFECTIVE DATE OF THE CANCELLATION OR SUSPENSION OR UNTIL A NEW BOND IS SUBMITTED TO THE ARIZONA DEPARTMENT OF INSURANCE WITH ALL THE REQUIREMENTS OF PROVISIONS A AND B, OR A HEARING IS CONDUCTED.**