

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

ENROLLED

Committee Substitute

for

House Bill 2758

BY DELEGATES BARRETT, HOTT, WESTFALL, BATES,

REED, ROWE, L. PACK AND FAST

[Passed April 7, 2021; in effect ninety days from passage.]

1 AN ACT to amend and reenact §51-10-1 and §51-10-8 of the Code of West Virginia, 1931, as
2 amended, all relating to requiring the Insurance Commissioner to regulate professional
3 bondsmen; providing definitions; requiring the Insurance Commissioner to promulgate and
4 propose rules to carry out the intent, administration, and enforcement of the article;
5 authorizing the promulgation of emergency rules; requiring the Insurance Commissioner
6 to promulgate and propose rules regarding qualifications of bondsman; setting forth
7 requirements for bondsman applicants; setting forth filing requirements for bondsmen with
8 the Insurance Commissioner; setting forth renewal requirements for bondsman license;
9 providing criminal penalty for false affidavit; requiring Insurance Commissioner to keep a
10 list of licensed bondsmen and furnish to a jail upon request; and, after July 1, 2022,
11 requiring all bondsmen to be licensed by the Insurance Commissioner.

Be it enacted by the Legislature of West Virginia:

ARTICLE 10. PROFESSIONAL BONDSMEN IN CRIMINAL CASES.

§51-10-1. Definitions.

1 When used in this article:
2 (1) "Bonding business" means the business of becoming surety for compensation upon
3 bonds in criminal cases in the State of West Virginia;
4 (2) "Bondsman" means (A) any person engaged in the bonding business that has satisfied
5 the requirements for, and is duly licensed as, an insurance producer with a property and casualty
6 line of authority as set forth by the Insurance Commissioner and §33-12-1, *et seq.* of this code;
7 or (B) any person who is approved and licensed under the provisions of this article who pledges
8 cash or approved securities with the commissioner as security for bail bonds written in connection
9 with a judicial proceeding and receives or is promised money or other things of value for the
10 pledge;
11 (3) "Commissioner" means the Insurance Commissioner of West Virginia, as defined in
12 §33-1-5 of this code; and

13 (4) "Insurer" means any domestic, foreign, or alien person, including a surety company,
14 which has been qualified generally to transact surety business in the State of West Virginia.

§51-10-8. Qualifications of bondsmen; rules to be prescribed by Insurance Commissioner; bondsman filing requirements; bondsman license renewal requirements; criminal penalty for filing false affidavit; list of bondsmen kept and provided to places of detention by Insurance Commissioner; requiring all bondsmen to be licensed by Insurance Commissioner after July 1, 2022.

1 (a) The commissioner shall promulgate and propose legislative rules for promulgation
2 under §29A-3-1, *et seq.* of this code, to carry out the intent, administration, and enforcement of
3 this article. The commissioner may promulgate any emergency rules under §29A-3-15 of this
4 code necessary to carry out the intent, administration, and enforcement of this article. The
5 commissioner shall develop all forms, contracts, or other documents to be used for the purposes
6 outlined in this article.

7 (b) The rules required by subsection (a) of this section shall specify the qualifications that
8 a person must have when applying to be a bondsman, and the terms and conditions upon which
9 the bonding business may be conducted. The commissioner shall require a biennial fee of \$200
10 for all bondsmen licensed under this article.

11 (c) The commissioner, in promulgating and proposing rules required by subsection (a) of
12 this section, and in granting a license to a person to engage in the bonding business, shall take
13 into consideration both the financial responsibility and the moral qualities of the person applying,
14 and a person who has been convicted of any offense involving moral turpitude, or who is not
15 known to be a person of good moral character shall not be licensed.

16 (d) The applicant shall provide the commissioner a qualifying power-of-attorney from a
17 licensed insurer or surety company or pledge cash or approved securities with the commissioner
18 as security for bail bonds.

19 (e) The applicant shall comply with the provisions of §33-12-37 of this code regarding
20 criminal history record checks.

21 (f) The commissioner shall require every bondsman licensed to engage in the bonding
22 business as a principal to file with the commissioner a list showing the name, age, and residence
23 of each person employed by the bondsman as an agent, clerk, or representative in the bonding
24 business, and require an affidavit from each of the persons stating that the person will abide by
25 the terms and provisions of this article.

26 (g) (1) The commissioner shall require a person licensed as a bondsman to renew his or
27 her license every two years and to file an affidavit stating that since his or her previous license to
28 engage in the bonding business he or she has abided by the provisions of this article.

29 (2) A person who files a false affidavit is guilty of false swearing and, upon conviction
30 thereof, shall be punished as provided by law for the offense.

31 (3) A person seeking to renew his or her license to engage in the bonding business shall
32 submit to the property and casualty requirements under section (d) of this section for each
33 renewal, unless he or she has voluntarily terminated his or her license to engage in the bonding
34 business.

35 (h) The commissioner shall keep a list of all bondsmen and, upon the request of a place
36 of detention listed under §51-10-6 of this code, furnish an alphabetical list of all licensed
37 bondsmen to the jail.

38 (j) After July 1, 2022, a person shall not, either as principal, or as agent, clerk, or
39 representative of an agent, engage in the bonding business unless licensed by the commissioner
40 under this section.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, House Committee

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Chairman, Senate Committee

Originating in the House.

In effect ninety days from passage.

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Clerk of the House of Delegates

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Clerk of the Senate

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Speaker of the House of Delegates

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President of the Senate

The within this the.....
day of, 2021.

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Governor