

# **WEST VIRGINIA LEGISLATURE**

## **2023 REGULAR SESSION**

**Introduced**

### **House Bill 2621**

By Delegates Burkhammer, Foster and Hott

[Introduced January 17, 2023; Referred to the  
Committee on Banking and Insurance then the  
Judiciary]

1 A BILL to amend and reenact §51-10-1 and §51-10-8 of the Code of West Virginia, 1931, as  
 2 amended, all relating to professional bondsmen in criminal cases; definitions of "approved  
 3 securities" and "bondsmen"; and requiring the Insurance Commissioner to formulate  
 4 testing and continuing education requirements for all applicants and license renewals.

*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 "Approved securities" means cash, irrevocable letter of credit, an annuity purchased  
 3 through an insurance company licensed and in good standing in this state, a bond issued by an  
 4 insurance company licensed and in good standing in this state, or a qualified power of attorney  
 5 issued by an insurer pursuant to a producer underwriting agreement, or real estate located in in  
 6 this state that is unencumbered in, at least, the amount of minimum financial responsibility  
 7 required as set forth by the insurance commissioner.

8 (1) "Bonding business" means the business of becoming surety for compensation upon  
9 bonds in criminal cases in the State of West Virginia;

10 (2) "Bondsmen" means ~~(A) any person engaged in the bonding business that has satisfied~~  
 11 ~~the requirements for, and is duly licensed as, an insurance producer with a property and casualty~~  
 12 ~~line of authority as set forth by the Insurance Commissioner and §33-12-1, et seq. of this code; or~~  
 13 (B) any person who is approved and licensed under the provisions of this article who pledges cash  
 14 or approved securities with the commissioner as security for bail bonds written in connection with a  
 15 judicial proceeding and receives or is promised money or other things of value for the pledge;

16 (3) "Commissioner" means the Insurance Commissioner of West Virginia, as defined in  
17 §33-1-5 of this code; and

18 (4) "Insurer" means any domestic, foreign, or alien person, including a surety company,  
19 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 this  
3 article. The commissioner may promulgate any emergency rules under §29A-3-15 of this code  
4 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 a  
8 person must have when applying to be a bondsman, and the terms and conditions upon which the  
9 bonding business may be conducted. The commissioner shall require a biennial fee of \$200 for all  
10 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 into  
13 consideration both the financial responsibility and the moral qualities of the person applying, and a  
14 person who has been convicted of any offense involving moral turpitude, or who is not known to be  
15 a person of good moral character ~~shall~~ may 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 the  
25 terms and provisions of this article.

26 (g) The commissioner shall formulate testing and continuing education requirements for all  
27 applicants and license renewals.

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

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

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

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

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

NOTE: The purpose of this bill is to require the Insurance Commissioner to formulate testing and continuing education requirements for all applicants and license renewals for professional bondsmen in criminal cases. The bill also provides a definition of "approved securities" and amend the definition of "bondsman".

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.