

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 367 Session of 2015

INTRODUCED BY CUTLER, CALTAGIRONE, REGAN, COHEN, LONGIETTI, HENNESSEY, KOTIK, CORBIN, TOPPER, TOEPEL, CARROLL, MILLARD, WATSON, SAYLOR, KORTZ, MURT, A. HARRIS, MENTZER, SACCONI, D. COSTA, GINGRICH, M. K. KELLER, THOMAS, GALLOWAY, GODSHALL, PICKETT, TAYLOR, BRIGGS, NEUMAN, MAJOR, ELLIS, O'BRIEN, SNYDER, GIBBONS, M. DALEY, DeLUCA, NESBIT, DIAMOND, SABATINA, DEAN, FLYNN, FEE, EVERETT, CAUSER, DERMODY, HELM, ADOLPH, HANNA, PETRI, PYLE, KILLION, P. DALEY, TOOHIL, READSHAW, FARINA, HARHART, DRISCOLL, P. COSTA, KAUFFMAN, MARSHALL, DONATUCCI, BARBIN AND PHILLIPS-HILL, FEBRUARY 9, 2015

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, AS AMENDED, APRIL 14, 2015

AN ACT

1 Amending Title 42 (Judiciary and Judicial Procedure) of the
2 Pennsylvania Consolidated Statutes, in bonds and
3 recognizances, amending provisions relating to professional
4 bondsmen; and providing for authorization to conduct business
5 within each county, for forfeited undertaking and, for <--
6 private cause of action AND FOR THIRD PARTY SURETIES. <--

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 Section 1. The heading of Subchapter B of Chapter 57 of
10 Title 42 of the Pennsylvania Consolidated Statutes is amended to
11 read:

SUBCHAPTER B

[PROFESSIONAL] BAIL BONDSMEN

14 Section 2. Sections 5741 and 5742 of Title 42 are amended to
15 read:

1 § 5741. Definitions.

2 The following words and phrases when used in this subchapter
3 shall have, unless the context clearly indicates otherwise, the
4 meanings given to them in this section:

5 "Bail bondsman." A person who engages in the business of
6 giving bail as a surety for compensation.

7 "Department." The Insurance Department of the Commonwealth.

8 "Insurer." As defined in section 601-A of the act of May 17,
9 1921 (P.L.789, No.285), known as The Insurance Department Act of
10 1921.

11 "Office of the clerk." The office of the clerk of the court
12 of common pleas of each judicial district in which a
13 [professional bondsman] person engages in the business of a
14 [professional] bail bondsman.

15 ["Professional bondsman." Any person, other than a fidelity
16 or surety company or any of its officers, agents, attorneys, or
17 employees, authorized to execute bail bonds or to solicit
18 business on its behalf, who:

19 (1) engages in the business of giving bail, giving or
20 soliciting undertakings, or giving or soliciting indemnity or
21 counterindemnity to sureties on undertakings; or

22 (2) within a period of 30 days has become a surety, or
23 has indemnified a surety, for the release on bail of a
24 person, with or without a fee or compensation, or promise
25 thereof, in three or more matters not arising out of the same
26 transaction.]

27 "Surety." A person who pledges security, whether or not for
28 compensation, in exchange for the release from custody of a
29 person charged with a crime prior to adjudication.

30 § 5742. [Registration and licensure] Licensure required.

1 [(a) General rule.--No professional bondsman shall become
2 surety on any undertaking, and no person shall engage in or
3 continue to engage in business as a professional bondsman,
4 unless he has been registered and is currently licensed as a
5 professional bondsman by the Insurance Department as provided in
6 this subchapter and has filed a copy of his license in the
7 office of the clerk in the manner prescribed by general rules.

8 (b) Form of application.--Every application for registration
9 and licensure as a professional bondsman shall be made in
10 writing upon such form as may be prescribed by regulations
11 promulgated by the Insurance Department.] No person shall engage
12 in, or continue to engage in, the business of a bail bondsman
13 unless the person has been licensed by the department as an
14 insurance producer under Article VI-A of the act of May 17, 1921
15 (P.L.789, No.285), known as The Insurance Department Act of
16 1921, and possesses a casualty line of authority.

17 Section 3. Section 5743 of Title 42 is repealed:

18 [§ 5743. Issuance of license.

19 (a) General rule.--The Insurance Department, upon receipt
20 of:

21 (1) an application for registration and licensure as a
22 professional bondsman; and

23 (2) an annual license fee of \$50;

24 shall, if it approves the application, register the applicant as
25 a professional bondsman and issue him a license.

26 (b) Duration.--Each license shall be valid for one year
27 following the date of issue.

28 (c) Nontransferable.--No license issued under this
29 subchapter shall be assigned or transferred.]

30 Section 4. Title 42 is amended by adding a section to read:

1 § 5743.1. Authorization to conduct business within each county.

2 A bail bondsman shall only be authorized to conduct business
3 in a county when the bail bondsman provides all of the following
4 documents to the office of the clerk:

5 (1) A copy of the license issued to the bail bondsman by
6 the department.

7 (2) A statement identifying an office address for
8 service of legal process.

9 (3) A qualifying power of attorney issued by an insurer
10 authorizing the bail bondsman as a producer on behalf of the
11 insurer. The qualifying power of attorney must set forth, in
12 clear and unambiguous terms, the maximum monetary authority
13 of the bail bondsman per bond.

14 Section 5. Sections 5744, 5745 and 5746 of Title 42 are
15 amended to read:

16 § 5744. Office.

17 No [license shall be issued to, and no] privileges or rights
18 conferred by any license issued under the provisions of this
19 subchapter shall be exercised by[, any professional] a bail
20 bondsman, unless such [professional] bail bondsman has and shall
21 thereafter maintain an office [in the county in which he
22 conducts or intends to conduct his business.] that is
23 geographically located in this Commonwealth and eligible to
24 receive original process and other legal papers as set forth by
25 the Pennsylvania Rules of Civil Procedure or other applicable
26 court rule.

27 § 5745. [Refusal to grant or renew license] Suspension or
28 nonrenewal of license for unpaid bail forfeitures.

29 [The Insurance Department, upon the written request of any
30 applicant for a license or for renewal thereof whose application

1 therefor has been refused, shall afford such applicant a hearing
2 on the question of the grant or renewal of a license.]

3 (a) General rule.--If the court of common pleas for the
4 county where the bail bondsman is authorized to conduct business
5 has been unable to collect unpaid forfeitures after a period of
6 six months, the court, upon petition of the county solicitor or
7 district attorney, shall issue an order directing the department
8 to:

9 (1) prohibit the renewal of a license of the bail
10 bondsman; or

11 (2) immediately suspend the license of the bail
12 bondsman.

13 (b) Notice to bail bondsman and insurer.--Prior to the
14 issuance of an order to suspend or nonrenew a license, the bail
15 bondsman and insurer who issued the qualifying power of attorney
16 shall both be given advance notice by certified mail, return
17 receipt requested. The notice shall specify all of the
18 following:

19 (1) The amount of forfeitures owed to the county, if
20 applicable.

21 (2) How, when and where the notice can be contested.

22 (3) That the grounds for contesting the notice shall be
23 limited to mistakes of fact. Mistakes of fact shall be
24 limited to errors in the amount of forfeitures owed or
25 mistaken identity of the bail bondsman as the person who was
26 subject to the bail forfeiture order.

27 (4) That an order to the department to automatically
28 suspend or nonrenew the license will occur in all cases 30
29 days after delivery of the notice by certified mail, return
30 receipt requested, unless the amount of forfeitures is paid,

1 a periodic payment schedule is approved by the court or the
2 individual is excused from payment due to a mistake of fact.

3 (c) Order.--The following shall apply:

4 (1) Thirty days after the issuance of the notice, if the
5 bail bondsman has not paid the amount of forfeitures due, the
6 court shall direct or cause an order to be issued to the
7 department to suspend or deny renewal of a license. Upon
8 receipt, the department shall immediately comply with the
9 order or directive. The department shall have no authority to
10 stay implementation of the order or to hold a hearing except
11 in cases of mistaken identity. A copy of the order issued by
12 the court shall be served upon the bail bondsman and insurer
13 by certified mail, return receipt requested.

14 (2) To contest an order, the bail bondsman or insurer
15 must appear before the court no later than ten days after
16 issuance of the order. The grounds for contesting shall be
17 limited to mistakes of fact. If it is determined, after a
18 hearing by the court, that a mistake of fact has occurred,
19 the action shall be modified accordingly within ten days.

20 (3) A person whose license has been suspended or not
21 renewed by the department pursuant to this section is
22 prohibited from engaging in the business of a bail bondsman
23 in any county in this Commonwealth.

24 (d) Implementation.--The department may promulgate
25 regulations necessary for the administration of this section.

26 (e) Construction.--This section shall apply in addition to
27 the provisions of Article VI-A of the act of May 17, 1921
28 (P.L.789, No.285), known as The Insurance Department Act of
29 1921, and shall supersede any conflicting provision in any other
30 state law unless the provision specifically references this

1 section and provides to the contrary.

2 (f) Immunity.--The court, department, county solicitor,
3 district attorney or an employee of any of these entities, or
4 any person appointed by these entities, shall not be subject to
5 civil or criminal liability for carrying out its duties under
6 this section.

7 § 5746. Suspension or revocation of [license] authority to
8 conduct business in a county.

9 (a) General rule.--Upon petition of the district attorney or
10 [by any interested person] county solicitor to suspend or revoke
11 the [license issued to any licensee] authority of a bondsman to
12 conduct business in a county that has been granted under this
13 subchapter, a rule shall issue out of the court of common pleas,
14 returnable not less than ten days after the issuance thereof. It
15 shall be sufficient service of the said rule upon any [licensee
16 to leave a copy thereof at] bail bondsman to send by certified
17 mail, return receipt requested, to the address filed by the
18 [licensee] bail bondsman with the office of the clerk pursuant
19 to this subchapter.

20 (b) Grounds for suspension or revocation.--Any [license
21 issued] authority granted under the provisions of this
22 subchapter may be suspended[,] or revoked by any court of common
23 pleas [for a period less than the unexpired portion of the
24 period for which such license shall have been issued, or may be
25 revoked] for good cause, or for any one or more of the following
26 causes:

27 (1) Violation of any of the provisions of this
28 subchapter.

29 (2) Fraudulently obtaining a license from the department
30 or fraudulently obtaining authority to conduct business under

1 the provisions of this subchapter.

2 (3) Upon conviction for any criminal offense under the
3 laws of this Commonwealth or under the laws of the United
4 States or any other jurisdiction.

5 (4) Upon being adjudged [a] bankrupt or insolvent.

6 (5) Failing to pay any judgment rendered on any
7 forfeited undertaking in any court of competent jurisdiction.

8 (6) Any interference or attempted interference with the
9 administration of justice.

10 Section 6. Section 5747 of Title 42 is repealed:

11 [§ 5747. Statements by fidelity or surety companies.

12 Any fidelity or surety company, authorized to act as surety
13 within this Commonwealth, may execute an undertaking as surety
14 by the hand of an officer, employee, agent, or attorney,
15 authorized thereto by a resolution of its board of directors, a
16 certified copy of which, under its corporate seal, shall be
17 filed with the undertaking. Fidelity or surety companies engaged
18 in the business of entering bail shall file, with the clerk of
19 the court of common pleas and with the district attorney of each
20 county in which bail is entered, a statement, quarterly on which
21 shall appear a summary of all bail entered by such company
22 during the previous quarter, together with the compensation
23 charged therefor.]

24 Section 7. Title 42 is amended by adding a section to read:

25 § 5747.1. Forfeited undertaking.

26 (a) General rule.--If a defendant in a criminal prosecution
27 fails to appear for any scheduled court proceeding, the
28 defendant's bail may be revoked and notice of revocation shall
29 serve as notice of intent to forfeit the bail of the defendant.
30 The notice or order of revocation shall be served by the office

1 of the clerk to the defendant, surety or bail bondsman and
2 insurer who has issued the qualifying power of attorney for the
3 bail bondsman by certified mail, return receipt requested.

4 (b) Payment.--The following shall apply:

5 (1) Ninety days from the date of the service of the
6 notice of revocation or order of revocation, the revocation
7 shall become a judgment of forfeiture, payment of which shall
8 be immediately required by the defendant or surety. Failure
9 of a bail bondsman to make a timely payment of a forfeiture
10 judgment shall result in the district attorney or county
11 solicitor commencing proceedings to suspend or nonrenew the
12 license of the bail bondsman otherwise consistent with
13 section 5746 (relating to suspension or revocation of
14 authority to conduct business in a county).

15 (2) Payment of forfeited undertaking shall be made
16 directly to the office of the clerk not later than the close
17 of business on the 91st day following the service of the
18 notice of revocation. If the defendant has been recovered and
19 placed into custody through the efforts of the bail bondsman
20 or proof has been provided to the court that the defendant
21 was discovered by the bail bondsman to be in custody in
22 another jurisdiction prior to the 91st day, no payment of the
23 forfeited undertaking shall be required. If the defendant is
24 placed into custody or discovered to be in custody, the court
25 shall set aside the bail revocation and may release the
26 defendant with the reinstatement of bail pursuant to the
27 Pennsylvania Rules of Criminal Procedure. The bail bondsman
28 shall not be continued by the court as surety on reinstated
29 bail unless a written consent is signed by the bail bondsman
30 agreeing to such extension of suretyship.

1 (3) Failure to render payment of the forfeited
2 undertaking by close of business on the 91st day shall bar
3 any right of remission to collect funds pursuant to the
4 forfeited undertaking.

5 (4) The office of the clerk shall provide a summary
6 quarterly statement of all overdue forfeited undertakings
7 which have not been paid by each bail bondsman and
8 insurer. The bail bondsman or insurer shall be afforded 30
9 days from the date of the statement to render payment of the
10 forfeited undertakings. Failure to render payment by close of
11 business on the 31st day shall result in suspension of the
12 ability to conduct business of both the bail bondsman and the
13 insurer in that judicial district until such time as payment
14 is rendered in full. The bail bondsman may be subject to
15 formal suspension or nonrenewal proceedings pursuant to
16 section 5746. In addition, the insurer may be subjected to
17 further administrative penalties, to be determined by the
18 department, consistent with the act of July 22, 1974
19 (P.L.589, No.205), known as the Unfair Insurance Practices
20 Act, or other applicable law.

21 (5) If the defendant is recovered after the 91st day
22 following the forfeiture, a surety may petition the court in
23 which the revocation and forfeiture occurred to remit all or
24 a portion of the funds collected in exchange for the absence
25 of the defendant. The court shall remit payment as follows:

26 (i) If the defendant is recovered between the 91st
27 day and six months after the order of revocation or
28 forfeiture, the surety shall recover the full value of
29 the forfeited amount of the bond, less an administrative
30 fee in the amount of \$250.

1 (ii) If the defendant is recovered between six
2 months and one year after the order of revocation or
3 forfeiture, the surety shall recover 80% of the value of
4 the forfeited amount of the bond.

5 (iii) If the defendant is recovered between one and
6 two years after the order of revocation or forfeiture,
7 the surety shall recover 50% of the value of the
8 forfeited amount of the bond.

9 (6) No third-party surety shall be responsible to render
10 payment on a forfeited undertaking if the revocation of bail
11 is sought for failure of the defendant to comply with the
12 conditions of the defendant's release other than appearance.
13 Any violation of performance conditions by a defendant shall
14 be deemed as a violation of a court order, subject to a
15 conviction for indirect contempt of court for violating a
16 court order instituting terms and conditions of release of
17 the defendant and all associated penalties.

18 Section 8. Section 5748 of Title 42 is repealed:

19 [§ 5748. Maximum premiums.

20 (a) General rule.--No professional bondsman shall charge a
21 premium or compensation for acting as surety on any undertaking
22 in excess of 10% for the first \$100, and 5% for each additional
23 \$100 of such undertaking.

24 (b) Civil penalty.--In any action brought to recover an
25 overcharge by a professional bondsman, where such overcharge is
26 proved, the professional bondsman shall be liable to pay treble
27 damages therefor and reasonable counsel fees.]

28 Section 9. Title 42 is amended by adding a section to read:

29 § 5748.1. Private cause of action.

30 (a) Self-policing.--A bail bondsman or insurer who

1 determines that a competitor has engaged in an activity that is
2 in violation of any provision of this chapter may commence a
3 cause of action seeking monetary damages, declaratory judgment
4 or injunctive relief from the court of common pleas of the
5 county in which the violation occurred. The violation must be
6 proven by clear and convincing evidence.

7 (b) Frivolous actions.--A bail bondsman or insurer who
8 wrongfully commences a baseless action, knowingly without any
9 merit or evidence, shall be subject to actual damages in the
10 amount of the costs of the defense of the suit and punitive
11 damages of an amount equal to those costs that constitute actual
12 damages.

13 Section 10. Section 5749 of Title 42 is amended to read:

14 § 5749. Prohibitions and penalties.

15 (a) Licensing.--Any person who engages in the business [as]
16 of a [professional] bail bondsman without being registered and
17 licensed in accordance with the provisions of this subchapter,
18 or who engages in such business while his license is suspended
19 or revoked, commits a misdemeanor of the third degree.

20 (b) Overcharging.--Any person charging or receiving directly
21 or indirectly any greater compensation for acting as a
22 [professional] bail bondsman than is provided by this subchapter
23 commits a summary offense.

24 (c) Soliciting.--Any person who accepts any fee or
25 compensation for obtaining a bondsman or a recognizance commits
26 a summary offense.

27 (d) Other violations.--Any person who violates any section
28 of this subchapter for which no specific penalty other than
29 suspension or revocation of license is provided commits a
30 summary offense.

1 (e) Public officials.--~~The following shall apply:~~ <--

2 ~~(1)~~ Any law enforcement officer, any employee of a penal
3 institution, or any other system or related personnel, who
4 has, directly or indirectly, any pecuniary interest in or
5 derives any profit from the bonding business or activity of a
6 [professional] bail bondsman commits a summary offense.

7 ~~(2) (i) Notwithstanding paragraph (1), it shall be~~ <--
8 ~~lawful for a person who serves as a law enforcement~~
9 ~~officer, employee of a penal institution or any other~~
10 ~~system or related personnel to engage in the service of~~
11 ~~aiding a bail bondsman in fugitive recovery so long as~~
12 ~~all of the following apply:~~

13 ~~(A) The services are not rendered while the~~
14 ~~person is performing the person's duties in the~~
15 ~~person's capacity as a State, county or city.~~

16 ~~(B) The person is compensated separately.~~

17 ~~(ii) A person who engages in fugitive recovery~~
18 ~~while in the service of the State, county or city or~~
19 ~~engages in fugitive recovery in uniform or under badge of~~
20 ~~the person's office commits a misdemeanor of the second~~
21 ~~degree.~~

22 (f) Public solicitation.--Any [professional] bail bondsman
23 who solicits business in any of the courts or on the premises of
24 any tribunal of this Commonwealth, including any tribunal
25 conducted by a magisterial district judge, commits a summary
26 offense.

27 SECTION 11. TITLE 42 IS AMENDED BY ADDING A SECTION TO READ: <--
28 § 5750. THIRD PARTY SURETIES.

29 (A) RESPONSIBILITIES.--A THIRD PARTY SURETY MUST REPORT A
30 VIOLATION OF A BAIL BOND CONDITION IF THE VIOLATION IS RELATED

1 TO ANY OF THE FOLLOWING:

2 (1) A STAY AWAY ORDER ISSUED BY A MAGISTERIAL DISTRICT
3 JUDGE, COURT OF COMMON PLEAS OR OTHER JUDICIAL OFFICER.

4 (2) AN ORDER ISSUED BY A MAGISTERIAL DISTRICT JUDGE,
5 COURT OF COMMON PLEAS OR OTHER JUDICIAL OFFICER UNDER 23
6 PA.C.S. CH. 61 (RELATING TO PROTECTION FROM ABUSE).

7 (3) AN ACT THAT CONSTITUTES A CRIME OF VICTIM OR WITNESS
8 INTIMIDATION AS PROVIDED UNDER 18 PA.C.S. § 4952 (RELATING TO
9 INTIMIDATION OF WITNESSES OR VICTIMS).

10 (4) AN ACT WHICH WOULD CONSTITUTE A MISDEMEANOR OR
11 FELONY UNDER THE FOLLOWING:

12 (I) 18 PA.C.S. CH. 25 (RELATING TO CRIMINAL
13 HOMICIDE).

14 (II) 18 PA.C.S. CH. 27 (RELATING TO ASSAULT).

15 (III) 18 PA.C.S. CH. 29 (RELATING TO KIDNAPPING).

16 (IV) 18 PA.C.S. CH. 31 (RELATING TO SEXUAL
17 OFFENSES).

18 (V) 30 PA.C.S. § 5502.1 (RELATING TO HOMICIDE BY
19 WATERCRAFT WHILE OPERATING UNDER INFLUENCE).

20 (VI) THE FORMER 75 PA.C.S. § 3731 (RELATING TO
21 DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED
22 SUBSTANCE) IN CASES INVOLVING BODILY INJURY.

23 (VII) 75 PA.C.S. § 3732 (RELATING TO HOMICIDE BY
24 VEHICLE).

25 (VIII) 75 PA.C.S. § 3735 (RELATING TO HOMICIDE BY
26 VEHICLE WHILE DRIVING UNDER INFLUENCE).

27 (IX) 75 PA.C.S. § 3735.1 (RELATING TO AGGRAVATED
28 ASSAULT BY VEHICLE WHILE DRIVING UNDER THE INFLUENCE).

29 (5) A CRIME ELIGIBLE FOR SENTENCING UNDER SECTION
30 9714(G) (RELATING TO SENTENCES FOR SECOND AND SUBSEQUENT

1 OFFENSES).

2 (B) REPORTING.--

3 (1) A THIRD PARTY SURETY MUST:

4 (I) REPORT A VIOLATION UNDER SUBSECTION (A) WITHIN
5 24 HOURS AFTER RECEIVING NOTICE OF THE VIOLATION,
6 VERBALLY OR IN WRITING, TO THE LAW ENFORCEMENT AGENCY IN
7 THE JURISDICTION RESPONSIBLE FOR THE CRIMINAL CASE OR
8 WHERE THE VIOLATION OCCURRED; AND

9 (II) CONFIRM IN WRITING TO THE OFFICE OF THE
10 ATTORNEY FOR THE COMMONWEALTH RESPONSIBLE FOR PROSECUTION
11 OF THE CASE FOR WHICH THE DEFENDANT WAS ADMITTED TO BAIL
12 WITHIN 48 HOURS OF MAKING THE INITIAL REPORT TO A LAW
13 ENFORCEMENT AGENCY.

14 (2) THE WRITTEN CONFIRMATION UNDER PARAGRAPH (1) (II)
15 MUST INCLUDE THE NAME OF THE DEFENDANT, THE NAME OF THE THIRD
16 PARTY SURETY, THE DATE OF THE VIOLATION, THE DATE AND TIME
17 THE THIRD PARTY SURETY LEARNED OF THE VIOLATION, THE NAME OF
18 THE LAW ENFORCEMENT AGENCY RECEIVING THE REPORT AND THE DATE
19 AND TIME THE THIRD PARTY SURETY REPORTED THE VIOLATION TO THE
20 LAW ENFORCEMENT AGENCY.

21 (3) THE REQUIREMENT UNDER PARAGRAPH (1) (II) MAY BE
22 SATISFIED BY HAND DELIVERY, UNITED STATES MAIL, FACSIMILE OR
23 ELECTRONIC MAIL.

24 (C) PENALTY.--

25 (1) EXCEPT AS PROVIDED UNDER PARAGRAPH (4), A THIRD
26 PARTY SURETY WHO FAILS TO COMPLY WITH SUBSECTIONS (A) AND (B)
27 MAY BE SUBJECT TO A CIVIL PENALTY IF THE ATTORNEY FOR THE
28 COMMONWEALTH DEMONSTRATES THAT:

29 (I) THE UNREPORTED VIOLATION OF A CONDITION
30 IDENTIFIED UNDER SUBSECTION (A) RESULTED IN BODILY INJURY

1 OR PROPERTY DAMAGE IN EXCESS OF \$10,000; AND

2 (II) EITHER OF THE FOLLOWING APPLY:

3 (A) THE TERMS OF THE BAIL CONDITION ARE KNOWN TO
4 THE THIRD PARTY SURETY PRIOR TO BODILY INJURY OR
5 PROPERTY DAMAGE BEING SUSTAINED AND THE THIRD PARTY
6 SURETY RECEIVED NOTICE OF THE VIOLATION OF THE
7 CONDITION WITH SUFFICIENT REASONABLE TIME TO MAKE THE
8 REPORT PRIOR TO THE BODILY INJURY OR PROPERTY DAMAGE
9 BEING SUSTAINED.

10 (B) THE THIRD PARTY SURETY'S FAILURE TO DISCOVER
11 AND REPORT THE VIOLATION WAS DUE TO WILLFUL DISREGARD
12 TO THE SAFETY OF A WITNESS, VICTIM OR THE GENERAL
13 PUBLIC IN CIRCUMSTANCES RELATED TO THE CONDITIONS
14 UNDER SUBSECTION (A).

15 (2) IF A COURT OF COMMON PLEAS IMPOSES A PENALTY UNDER
16 PARAGRAPH (1), A THIRD PARTY SURETY SHALL BE ASSESSED A CIVIL
17 PENALTY IN AN AMOUNT OF NOT LESS THAN \$500 NOR MORE THAN
18 \$5,000. THE FOLLOWING SHALL APPLY:

19 (I) IF THE ATTORNEY FOR THE COMMONWEALTH IS ABLE TO
20 DEMONSTRATE THAT THE THIRD PARTY SURETY IS A BAIL
21 BONDSMAN AND THE PENALTY IS NOT PAID WITHIN 90 DAYS OF
22 BEING IMPOSED, THE COURT SHALL SUSPEND THE AUTHORITY OF
23 THE BAIL BONDSMAN TO OPERATE AS A BAIL BONDSMAN IN THE
24 COUNTY FOR 60 DAYS AND SHALL PROVIDE NOTICE OF THE
25 SUSPENSION TO THE SURETY INSURER ASSOCIATED WITH THE BAIL
26 BONDSMAN. IF THE PENALTY REMAINS UNPAID AT THE CONCLUSION
27 OF THE SUSPENSION, THE ATTORNEY FOR THE COMMONWEALTH
28 SHALL COMMENCE LICENSE REVOCATION PROCEDURES UNDER
29 SECTION 5745 (RELATING TO SUSPENSION OR NONRENEWAL OF
30 LICENSE FOR UNPAID BAIL FORFEITURES) OR 5746 (RELATING TO

1 SUSPENSION OR REVOCATION OF AUTHORITY TO CONDUCT BUSINESS
2 IN A COUNTY).

3 (II) ANY FUNDS RECEIVED AS A CIVIL PENALTY UNDER
4 THIS PARAGRAPH MUST BE RETAINED AND BE USED BY THE
5 DISTRICT ATTORNEY TO PROVIDE VICTIM SERVICES.

6 (3) IF THE THIRD PARTY SURETY IS A BAIL BONDSMAN AND HAS
7 BEEN PENALIZED UNDER PARAGRAPH (2) FOR THREE OR MORE
8 VIOLATIONS IN A TWO-YEAR PERIOD, THE ATTORNEY FOR THE
9 COMMONWEALTH MAY COMMENCE AN ACTION TO REVOKE THE BAIL
10 BONDSMAN'S ABILITY TO CONDUCT BUSINESS UNDER SECTION 5745 OR
11 5746.

12 (4) A CIVIL PENALTY MAY NOT BE ASSESSED AND A LICENSE
13 SUSPENSION OR REVOCATION MAY NOT BE IMPOSED AGAINST A THIRD
14 PARTY SURETY FOR ANY OF THE FOLLOWING:

15 (I) FAILURE TO REPORT A KNOWN VIOLATION UNDER
16 SUBSECTION (A), IF THE THIRD PARTY SURETY PROVIDES
17 EVIDENCE THAT THE VIOLATION WAS REPORTED TO A LAW
18 ENFORCEMENT AGENCY UNDER SUBSECTION (B).

19 (II) LACK OF KNOWLEDGE OF THE BAIL CONDITIONS, IF
20 THE THIRD PARTY SURETY PROVIDES EVIDENCE THAT THE THIRD
21 PARTY SURETY ATTEMPTED TO OBTAIN INFORMATION ABOUT THE
22 BAIL CONDITIONS WHICH WENT UNANSWERED OR REFUSED OR THAT
23 THE BAIL CONDITIONS WERE ALTERED SUBSEQUENT TO THE
24 DEFENDANT'S RELEASE AND THE THIRD PARTY SURETY LACKED
25 INFORMATION ABOUT THE AMENDED CONDITIONS.

26 (III) WILLFUL DISREGARD TO THE SAFETY OF A WITNESS,
27 VICTIM OR THE GENERAL PUBLIC, IF:

28 (A) THE THIRD PARTY SURETY PROVIDES EVIDENCE
29 THAT THE THIRD PARTY SURETY REVIEWED THE BAIL
30 CONDITIONS WITH THE DEFENDANT WITHIN 24 HOURS OF

1 RELEASE AND DURING INSTANCES OF CONTACT BETWEEN THE
2 THIRD PARTY SURETY AND THE DEFENDANT; AND

3 (B) IF THE DEFENDANT INDICATED A WILLINGNESS TO
4 COMMIT A VIOLATION UNDER SUBSECTION (A), THE THIRD
5 PARTY SURETY REPORTED THE RISK TO THE ATTORNEY FOR
6 THE COMMONWEALTH OR THE LAW ENFORCEMENT AGENCY, IF
7 THE ATTORNEY FOR THE COMMONWEALTH IS UNAVAILABLE.

8 (D) BAIL FORFEITURE.--NOTHING UNDER THIS SECTION SHALL
9 PRECLUDE THE ATTORNEY FOR THE COMMONWEALTH FROM SEEKING A BAIL
10 FORFEITURE DIRECTLY FROM THE DEFENDANT.

11 (E) APPLICABILITY.--THIS SECTION SHALL APPLY TO THIRD PARTY
12 SURETIES.

13 Section ~~11~~ 12. A person licensed as a professional bondsman <--
14 prior to the effective date of this act shall be licensed as an
15 insurance producer in accordance with Article VI-A of the act of
16 May 17, 1921 (P.L.789, No.285), known as The Insurance
17 Department Act of 1921.

18 Section ~~12~~ 13. This act shall take effect in 120 days. <--