

CHAPTER 96

PROFESSIONS AND OCCUPATIONS

SENATE BILL 95-097

BY SENATORS Perlmutter, Casey, and Wattenberg;
also REPRESENTATIVE Adkins.

AN ACT

CONCERNING THE LICENSURE REQUIREMENTS FOR PERSONS ISSUING BAIL BONDS, AND, IN CONNECTION THEREWITH, THE BONDING REQUIREMENTS FOR SUCH AGENTS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 12-7-101, Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended to read:

12-7-101. Definitions. As used in this article, unless the context otherwise requires:

(1) "BAIL BONDING AGENT" OR "BONDING AGENT" MEANS ANY PERSON WHO FURNISHES BAIL FOR COMPENSATION IN ANY COURT OR COURTS IN THIS STATE AND WHO IS APPOINTED BY AN INSURER BY POWER OF ATTORNEY TO EXECUTE OR COUNTERSIGN BAIL BONDS IN CONNECTION WITH JUDICIAL PROCEEDINGS AND WHO IS OTHER THAN A FULL-TIME SALARIED OFFICER OR EMPLOYEE OF AN INSURER OR A PERSON WHO PLEDGES UNITED STATES CURRENCY, A UNITED STATES POSTAL MONEY ORDER, A CASHIER'S CHECK, OR OTHER PROPERTY AS SECURITY FOR A BAIL BOND IN CONNECTION WITH A JUDICIAL PROCEEDING, WHETHER FOR COMPENSATION OR OTHERWISE.

~~(2)~~ (2) "Commissioner" means the commissioner of insurance.

~~(3)~~ (3) "Division" means the division of insurance.

~~(4)~~ (4) "Insurer" means any domestic or foreign corporation, association, partnership, or individual engaged in the business of insurance or suretyship which has qualified to transact surety or casualty business in this state.

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

~~(4) "Professional bonding agent" means any person who furnishes bail for compensation in any court or courts in this state and who is appointed by an insurer by power of attorney to execute or countersign bail bonds in connection with judicial proceedings and who is other than a full-time salaried officer or employee of an insurer or a person who pledges United States currency, a United States postal money order, a cashier's check, or other property as security for a bail bond in connection with a judicial proceeding, whether for compensation or otherwise.~~

(5) Repealed.

SECTION 2. 12-7-102 (2) and (4), Colorado Revised Statutes, 1991 Repl. Vol., as amended, are amended to read:

12-7-102. License required - qualifications - enforcement. (2) No license shall be issued except in compliance with this article, and none shall be issued except to an individual. No firm, partnership, association, or corporation, as such, shall be licensed. No person engaged as a law enforcement or judicial officer shall be licensed under this article. Every applicant FOR INITIAL LICENSURE UNDER THIS ARTICLE shall provide satisfactory evidence to the commissioner that such applicant HAS:

(a) ~~Is eighteen years of age or older;~~ COMPLIED WITH THE REQUIREMENTS STATED IN SECTION 10-2-404 (1) AND (3), C.R.S.; AND

(b) ~~Is a resident of this state;~~ NOT COMMITTED OR ENGAGED IN AN ACT DESCRIBED IN SECTION 12-7-106 (1).

(c) ~~Is a person of good moral character and has not been convicted of a felony or any crime involving moral turpitude within the last ten years;~~

(d) ~~Has not served a sentence upon a conviction of a felony or any crime involving moral turpitude in a correctional facility, a city or county jail, or community corrections or under the supervision of the state board of parole or any probation department within the last ten years;~~

(e) ~~Has not had a license revoked in the immediate past five years in this or any other state.~~

(4) Each license issued under this article shall expire annually on ~~January 31~~ JANUARY 1 unless revoked or suspended prior thereto by the division or upon notice served upon the commissioner by the insurer or the employer or user of any licensee that such insurer, employer, or user has cancelled the licensee's authority to act for or in behalf of such insurer, employer, or user.

SECTION 3. 12-7-103, Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended to read:

12-7-103. License requirements - application - qualification bond - forfeiture. (1) Any person desiring to engage in the business of ~~professional~~ BAIL bonding agent in this state shall apply to the division for a license on forms prepared and furnished by the division. Such application for a license or renewal thereof shall set forth,

under oath, the following information:

(a) Full name, age, residence during the previous twelve months, occupation, and business address of the applicant;

(b) Repealed.

(c) Whether the applicant has been convicted of a felony or ~~a crime involving moral turpitude~~ ENGAGED IN OR COMMITTED AN ACT DESCRIBED IN SECTION 12-7-106 (1), during the previous ten years;

(d) Such other information including but not limited to a complete set of fingerprints certified to by an authorized law enforcement official and a full-face photograph, as may be required by this article or by the division.

(e) and (f) Repealed.

(2) Each applicant shall satisfy the division of such applicant's good moral character by furnishing references thereof.

(3) (a) Each applicant for ~~professional~~ BAIL bonding agent shall be required to post a qualification bond in an amount not less than fifty thousand dollars with the division. The qualification bond shall meet such specifications as may be required and approved by the division. Such bond shall be conditioned upon the full and prompt payment on any bail bond issued by such professional bonding agent into the court ordering such bond forfeited. ~~Professional~~ BAIL bonding agents authorized as cash bonding agents pursuant to subsection (7) of this section may only issue bonds in accordance with the provisions of section 16-4-104 (1) (b) (III), C.R.S. The bond shall be to the people of the state of Colorado in favor of any court in this state, whether municipal, county, district, or other court. Any qualification bond for a ~~professional~~ BAIL bonding agent shall also be to the commissioner and the division to fulfill the purposes of this section. In the event of a forfeiture of a ~~professional~~ BAIL bonding agent's qualification bond, the division shall have priority over all other claimants to such bond.

(b) If any bond issued by a ~~professional~~ BAIL bonding agent is declared forfeited, and judgment is entered thereon by a court of proper jurisdiction, and the amount of the bond is not paid within a reasonable time to be determined by the court but not to exceed ninety days, such court shall order the division to declare the qualification bond of such ~~professional~~ BAIL bonding agent to be forfeited after a hearing as provided in section 12-7-106 (2). The division shall then order the surety on the qualification bond to deposit with the court an amount equal to the amount of the bond issued by such ~~professional~~ BAIL bonding agent and declared forfeited by the court or the amount of the qualification bond, whichever is the smaller amount. The division shall suspend the license of such ~~professional~~ BAIL bonding agent until such time as all forfeitures and judgments ordered and entered against the ~~professional~~ BAIL bonding agent have been certified as paid or vacated by order of a court of record and another qualification bond in the required amount is posted with the division.

(4) Prior to being licensed, every person applying to practice as a ~~professional~~ BAIL

bonding agent in this state shall pass an examination approved and adopted by the division. The passing score on such examination shall be set by the division at such level as is necessary to assure that each person passing such examination has the minimum necessary level of competency to practice as a ~~professional~~ BAIL bonding agent in this state. The division shall periodically update the licensure examination as necessary to ensure that all persons passing such examination have the minimum necessary level of competency to practice as ~~professional~~ BAIL bonding agents in this state.

(5) Upon receipt of the license application, the required fee, and an approved qualification bond in the required amount, passage of the examination, and compliance with this article, the division shall issue to the applicant a license to do business as a ~~professional~~ BAIL bonding agent.

(6) No licensed ~~professional~~ BAIL bonding agent shall employ in such bonding agent's bail bond business any person who could not qualify for a license under this article, nor shall any licensed ~~professional~~ BAIL bonding agent have as a partner or associate in such business any person who could not so qualify.

(7) No person can qualify to be a ~~professional~~ BAIL bonding agent unless such person is a licensed insurance producer appointed to represent an insurance company under article 2 of title 10, C.R.S. However, any ~~professional~~ BAIL bonding agent who was licensed by the division as of January 1, 1992, to write bail bonds as a cash bonding agent shall be permitted to continue such licensure upon compliance with the other requirements of this article.

SECTION 4. Article 7 of title 12, Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

12-7-102.5. Prelicensure education requirements - exemptions. (1) AS A CONDITION OF INITIAL LICENSURE UNDER THIS ARTICLE, THE COMMISSIONER SHALL REQUIRE EACH APPLICANT TO SUBMIT EVIDENCE OF SATISFACTORY COMPLETION OF AN APPROVED PRELICENSURE EDUCATION OR TRAINING COURSE. SUCH EDUCATION OR TRAINING SHALL CONSIST OF AT LEAST EIGHT CLOCK HOURS, TWO OF WHICH SHALL CONCERN THE CRIMINAL COURT SYSTEM, TWO OF WHICH SHALL CONCERN BAIL BOND INDUSTRY ETHICS, AND FOUR OF WHICH SHALL CONCERN THE LAWS RELATING TO BAIL BONDS.

(2) PRELICENSURE EDUCATION REQUIREMENTS SHALL NOT APPLY TO A PERSON APPLYING FOR:

(a) REINSTATEMENT OF A CANCELLED OR EXPIRED BAIL BONDING AGENT LICENSE, IF SUCH LICENSE HAS BEEN INACTIVE FOR ONE YEAR OR LESS; OR

(b) A LICENSE ISSUED UNDER THIS ARTICLE, IF SUCH PERSON HAS BEEN LICENSED IN ANOTHER STATE FOR AT LEAST ONE YEAR AND HAS COMPLETED OR SATISFIED PRELICENSURE REQUIREMENTS WHICH ARE SUBSTANTIALLY SIMILAR TO THOSE STATED IN SUBSECTION (1) OF THIS SECTION.

(3) PRELICENSURE EDUCATION COURSES SHALL BE CERTIFIED, REGISTERED, AND

REVIEWED BY THE COMMISSIONER PURSUANT TO SECTION 10-2-203.

(4) AN INDIVIDUAL APPLYING FOR A LICENSE UNDER THIS ARTICLE SHALL PAY TO THE COMMISSIONER, IN ADDITION TO ANY OTHER APPLICABLE FEES OR CHARGES, A FEE ESTABLISHED BY THE COMMISSIONER FOR THE OPERATION OF THE PRELICENSURE EDUCATION PROGRAM.

(5) THE COMMISSIONER SHALL ADOPT ALL RULES NECESSARY TO ADMINISTER THE PRELICENSURE EDUCATION REQUIREMENTS OF THIS SECTION. SUCH RULES SHALL SET FORTH THE STANDARDS BY WHICH COURSES AND PROGRAMS SHALL QUALIFY FOR APPROVAL AND SHALL DESCRIBE A SYSTEM OF CONTROL AND REPORTING.

12-7-103.5. Continuing education requirement. (1) A BAIL BONDING AGENT LICENSED UNDER THIS ARTICLE SHALL SATISFACTORILY COMPLETE AT LEAST SIX CLOCK HOURS OF INSTRUCTION EVERY TWO YEARS BY ATTENDING COURSES OR PROGRAMS OF INSTRUCTION THAT HAVE BEEN APPROVED BY THE COMMISSIONER. TWO CLOCK HOURS OF SUCH INSTRUCTION SHALL CONCERN BAIL BOND INDUSTRY ETHICS. THE COMMISSIONER MAY ADOPT RULES CONCERNING TESTS THAT RELATE TO SUCH CONTINUING EDUCATION REQUIREMENTS.

(2) (a) A BAIL BONDING AGENT LICENSED BEFORE JANUARY 1, 1995, SHALL COMPLETE AT LEAST SIX CLOCK HOURS OF CONTINUING EDUCATION AS DESCRIBED IN SUBSECTION (1) OF THIS SECTION BY DECEMBER 31, 1997, AND AN ADDITIONAL SIX CLOCK HOURS OF SUCH CONTINUING EDUCATION EVERY TWO YEARS THEREAFTER.

(b) A BAIL BONDING AGENT LICENSED ON OR AFTER JANUARY 1, 1995, SHALL COMPLETE AT LEAST SIX CLOCK HOURS OF CONTINUING EDUCATION AS DESCRIBED IN SUBSECTION (1) OF THIS SECTION BY DECEMBER 31 OF THE SECOND FULL CALENDAR YEAR AFTER INITIAL LICENSURE AND AN ADDITIONAL SIX CLOCK HOURS OF SUCH CONTINUING EDUCATION EVERY TWO YEARS THEREAFTER.

(c) FOR GOOD CAUSE SHOWN, THE COMMISSIONER MAY GRANT AN EXTENSION OF TIME, NOT TO EXCEED ONE YEAR, WITHIN WHICH AN APPLICANT MAY COMPLY WITH THIS SECTION.

(d) AN INSTRUCTOR OF AN APPROVED COURSE OF INSTRUCTION SHALL QUALIFY FOR THE SAME NUMBER OF CLOCK HOURS OF CONTINUING EDUCATION AS A PERSON ATTENDING AND SUCCESSFULLY COMPLETING THE COURSE OR PROGRAM, BUT SHALL NOT RECEIVE CREDIT MORE THAN ONCE FOR A COURSE OR PROGRAM GIVEN MORE THAN ONCE DURING A TWO-YEAR PERIOD.

(3) A BAIL BONDING AGENT LICENSED UNDER THIS ARTICLE SHALL FURNISH WRITTEN PROOF OF COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION, IN A FORM SATISFACTORY TO THE COMMISSIONER.

(4) AN ORGANIZATION SPONSORING A COURSE OF CONTINUING EDUCATION, OR A PERSON ACTING ON ITS BEHALF, SHALL EXECUTE WRITTEN CERTIFICATION THAT A COURSE OF INSTRUCTION HAS BEEN COMPLETED. SUCH CERTIFICATION SHALL BE IN A FORM SATISFACTORY TO THE COMMISSIONER.

(5) A BAIL BONDING AGENT LICENSED UNDER THIS ARTICLE WHO FAILS TO COMPLY

WITH THIS SECTION, OR IS FOUND AFTER NOTICE AND THE OPPORTUNITY FOR HEARING TO HAVE SUBMITTED A FALSE OR FRAUDULENT CERTIFICATE OF COMPLIANCE, SHALL HAVE HIS OR HER LICENSE SUSPENDED UNTIL SUCH PERSON SATISFACTORILY DEMONSTRATES TO THE COMMISSIONER THAT ALL OF THE REQUIREMENTS OF THIS SECTION HAVE BEEN MET.

(6) SECTION 10-2-301 (6) AND (7), C.R.S., SHALL APPLY WITH RESPECT TO THE ADMINISTRATION OF THE CONTINUING EDUCATION REQUIREMENTS FOR BAIL BONDING AGENTS LICENSED UNDER THIS ARTICLE.

(7) THIS SECTION SHALL NOT APPLY TO ANY BAIL BONDING AGENT WHO WAS LICENSED BY THE DIVISION AS OF JANUARY 1, 1992, TO WRITE BAIL BONDS AS A CASH BONDING AGENT.

(8) THIS SECTION IS REPEALED, EFFECTIVE JULY 1, 2000.

SECTION 5. 12-7-104, Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended to read:

12-7-104. License fees. Each license application and application for license renewal to engage in the business of ~~professional~~ BAIL bonding agent shall be accompanied by a fee of two hundred dollars.

SECTION 6. 12-7-104.5 (1), Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended to read:

12-7-104.5. Advisory committee. (1) There is hereby created an advisory committee of ~~three~~ FOUR persons to advise the commissioner on issues concerning bail bonds and on complaints concerning licensees and the bail bond industry. The committee shall be composed of one ~~professional~~ BAIL bonding agent LICENSED UNDER THIS ARTICLE, one attorney, ~~and~~ one person representing the division, AND ONE COMPANY REPRESENTATIVE. The committee members shall serve without compensation but may be entitled to reimbursement for actual and necessary expenses. Appointments shall be made by the commissioner for terms of one year. Vacancies which occur during any term shall be filled by the commissioner for the remainder of such term. THE ADVISORY COMMITTEE SHALL MAKE RECOMMENDATIONS TO THE COMMISSIONER WITH RESPECT TO THE REQUIREMENT FOR CONTINUING EDUCATION AND THE STANDARDS FOR QUALIFYING COURSES AND PROGRAMS FOR CERTIFICATION FOR BAIL BONDING AGENTS LICENSED UNDER THIS ARTICLE.

SECTION 7. 12-7-105 (1), Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended to read:

12-7-105. Reports and records required - professional bonding agents - division. (1) Each ~~professional~~ BAIL bonding agent licensed under the provisions of this article shall, under oath, report semiannually to the division on forms prescribed by the division. The reports shall be ~~made~~ FILED WITH THE DIVISION prior to January 31 and July 31 of each year and shall contain the following detailed information for the preceding calendar year:

(a) The names of the persons for whom such ~~professional~~ BAIL bonding agent has

become surety;

(b) The date and amount of the bonds issued by such bonding agent and the court in which such bonds were posted;

(c) The fee for each bond charged by such ~~professional~~ BAIL bonding agent;

(d) The amount of collateral or security received from insured principals or persons acting on behalf of such principals by such ~~professional~~ BAIL bonding agent on each bond;

(e) The names of all persons who are employees, partners, and associates of the ~~professional~~ BAIL bonding agent. Such bonding agent shall immediately report any change in the list of names to the division.

(f) Such further information as the division may require including, but not limited to, residence and business addresses, financial statements, and other business activities of the ~~professional~~ BAIL bonding agent.

SECTION 8. The introductory portion to 12-7-106 (1) and 12-7-106 (1) (k) and (1) (n), Colorado Revised Statutes, 1991 Repl. Vol., as amended, are amended, and the said 12-7-106 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

12-7-106. Denial, suspension, revocation, and refusal to renew license - hearing - alternative civil penalty. (1) The division shall deny, suspend, revoke, or refuse to renew, as may be appropriate, the license of any person engaged in the business of ~~professional~~ BAIL bonding agent for any of the following reasons:

(k) Revocation of a license as a ~~professional~~ BAIL bonding agent in the immediate past five years in this or any other state;

(n) Conviction of an unlawful entry into a residence by any ~~professional~~ BAIL bonding agent or such bonding agent's representative or employees in violation of section 16-3-201, C.R.S.;

(p) FAILURE TO PAY A FINAL, NONAPPEALABLE JUDGMENT AWARD FOR FAILURE TO RETURN OR REPAY COLLATERAL RECEIVED TO SECURE A BOND.

SECTION 9. 12-7-107 (1) and (3), Colorado Revised Statutes, 1991 Repl. Vol., as amended, are amended to read:

12-7-107. Notice to courts and surety. (1) The division shall furnish to all courts in this state, as specified in section 12-7-101 ~~(4)~~; (1), the names of all ~~professional~~ BAIL bonding agents licensed under the provisions of this article; shall forthwith notify such courts of the suspension, revocation, or reinstatement of any BAIL bonding agent's license to engage in such business; and shall forthwith notify such courts of any surety company becoming insolvent, subject to an order for relief under the federal "Bankruptcy Reform Act of 1978", Title 11 of the United States Code, or placed in receivership. No court shall accept bond from a ~~professional~~ BAIL bonding agent unless such bonding agent is licensed under the provisions of this

article and unless such BAIL bonding agent exhibits to such court a valid pocket card or license issued by the division, which license of such bonding agent has not been suspended or revoked.

(3) The ~~professional~~ BAIL bonding agent shall prepare a list of all collateral taken for assurance of compliance with the bond issued and the fee paid therefor. The ~~professional~~ BAIL bonding agent shall provide such list to the surety within ten days of taking the collateral. Failure to provide this written list to the surety or to keep a file of all such lists or to provide the list or a copy thereof to the commissioner on request is a violation of this section and shall be a ground for revocation of the ~~professional~~ BAIL bonding agent's license.

SECTION 10. 12-7-108, Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended to read:

12-7-108. Bonding agreement - requirements - payment schedule. (1) A BONDING AGREEMENT SHALL BE IN WRITING AND SIGNED BY THE BAIL BONDING AGENT AND THE PRINCIPAL. IF THE PRINCIPAL IS ILLITERATE OR DOES NOT READ THE ENGLISH LANGUAGE, SUCH BAIL BONDING AGENT SHALL NOTE ON THE AGREEMENT THAT HE OR SHE OR A THIRD PARTY HAS READ OR TRANSLATED THE BONDING AGREEMENT TO THE PRINCIPAL, AND A COPY OF THE TRANSLATION SHALL BE ATTACHED TO THE AGREEMENT.

(2) Except for a BOND filing fee FEES CHARGED BY A COURT OR LAW ENFORCEMENT AGENCY AND THE ACTUAL COST OF STORING COLLATERAL IN A SECURE, SELF-SERVICE PUBLIC STORAGE FACILITY, no ~~professional~~ BAIL bonding agent LICENSED UNDER THIS ARTICLE shall charge for such BAIL bonding agent's premium, commission, or fee an amount more than fifteen percent of the amount of bail furnished by such bonding agent or twenty dollars, whichever is more.

(3) AN ARRANGEMENT FOR THE PAYMENT OF ALL OR PART OF THE PREMIUM, COMMISSION, OR FEE PAID TO A BAIL BONDING AGENT LICENSED UNDER THIS ARTICLE SHALL BE IN WRITING AND SHALL SET FORTH THE SCHEDULE OF SUCH PAYMENTS.

SECTION 11. 12-7-109 (1) (c), (1) (e), (1) (g), (1) (h), (1) (j), (1) (k), (1) (n), and (3), Colorado Revised Statutes, 1991 Repl. Vol., as amended, are amended, and the said 12-7-109 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

12-7-109. Prohibited activities - penalties. (1) It is unlawful for any licensee under this article to engage in any of the following activities:

(c) Pay a fee or rebate or give anything of value to an attorney in bail bond matters, except in defense of any action on a bond or as counsel to represent such ~~professional~~ BAIL bonding agent or such bonding agent's representative or employees;

(e) Accept anything of value from a person on whose bond such licensee is surety or from others on behalf of such person except the fee or premium on the bond, but the ~~professional~~ BAIL bonding agent may accept collateral security or other indemnity if:

(I) No collateral or security in tangible property is taken by pledge or debt instrument which allows retention, sale, or other disposition of such property upon default except in accordance with the provisions of article 9 of title 4, C.R.S.;

(II) No collateral or security interest in real property is taken by deed or any other instrument unless the ~~professional~~ BAIL bonding agent's interest in the property is limited to the amount of the bond;

(III) The collateral or security taken by the ~~professional~~ BAIL bonding agent is not pledged directly to any court as security for any appearance bond; and

(IV) The person from whom the collateral or security is taken is issued a receipt describing the condition of the collateral at the time it is taken into the custody of the ~~professional~~ BAIL bonding agent;

(g) Act as a ~~professional~~ BAIL bonding agent in any court of record in this state if such licensee is in default in securing any person's bond;

(h) Fail to apprise the court of known inaccuracies in any property value schedules of security being pledged directly under the provisions of section 16-4-104, C.R.S., to any court in this state in combination with a bond underwritten by the ~~professional~~ BAIL bonding agent;

(j) Post bond in any amount in the name of a corporate surety:

(I) Without authorization from the corporate surety; OR

(II) AFTER THE WITHDRAWAL OF AUTHORIZATION BY THE CORPORATE SURETY BY SUCH SURETY PROVIDING NOTICE IN WRITING, BY CERTIFIED MAIL, SENT TO THE LAST KNOWN BUSINESS ADDRESS OF THE LICENSEE;

(k) Accept anything of value from a person on whose bond such licensee is indemnitor or from another on behalf of such principal except the premium; except that the ~~professional~~ BAIL bonding agent LICENSED UNDER THIS ARTICLE may accept collateral security or other indemnity from the person on whose bond such BAIL bonding agent is indemnitor or from another on behalf of such principal. All such collateral or other indemnity shall be returned pursuant to the requirements contained in paragraph (d.5) of this subsection (1). The ~~professional~~ BAIL bonding agent LICENSED UNDER THIS ARTICLE shall preserve and separately retain such collateral and shall be responsible for the return of all such collateral taken and shall be liable for failure thereof as will also be the surety company. When a ~~professional~~ BAIL bonding agent accepts collateral as security pursuant to this paragraph (k), such BAIL bonding agent shall give a written receipt for such collateral to the person on whose bond such BAIL bonding agent is indemnitor or to another on behalf of such principal and the surety, which shall provide in detail a full description of the collateral received. In the event of the failure of or inability for any reason of a ~~professional~~ BAIL bonding agent or such BAIL bonding agent's heirs or assignees to return collateral as required in this paragraph (k), the commissioner or the commissioner's designee is authorized to take immediate possession of the collateral and take whatever actions are necessary and appropriate to assure compliance with the obligations of this article relating to the return of collateral. The commissioner is

authorized to utilize any or all of the qualification bond required in section 12-7-103 (3) for any costs incurred. Any such payment received by the commissioner is hereby appropriated to the division of insurance in addition to any other funds appropriated for its normal operation. THE COMMISSIONER SHALL FORFEIT A QUALIFICATION BOND IN THE AMOUNT NECESSARY TO PAY ANY FINAL, NONAPPEALABLE JUDGMENT AWARD FOR FAILURE TO RETURN COLLATERAL, INCLUDING COSTS AND ATTORNEY'S FEES, IF AWARDED.

(n) Fail to issue to the person from whom collateral or security is taken a receipt which includes a description of the collateral or security at the time it is taken into the custody of the ~~professional~~ BAIL bonding agent;

(o) FAILURE TO POST A BOND WITHIN TWENTY-FOUR HOURS OF RECEIPT OF FULL PAYMENT OR A SIGNED CONTRACT FOR PAYMENT, OR IF THE BOND IS NOT POSTED WITHIN TWENTY-FOUR HOURS OF RECEIPT OF FULL PAYMENT OR A SIGNED CONTRACT FOR PAYMENT, FAILURE TO REFUND ALL MONEYS RECEIVED, RELEASE ALL LIENS, AND RETURN ALL COLLATERAL WITHIN FORTY-EIGHT HOURS OF RECEIPT OF SUCH PAYMENT OR CONTRACT.

(3) Any person who acts or attempts to act as a ~~professional~~ BAIL bonding agent and who is not licensed as such under this article is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars, or by imprisonment in the county jail for not more than one year, or by both such fine and imprisonment.

SECTION 12. 12-7-111, Colorado Revised Statutes, 1991 Repl. Vol., as amended, is amended to read:

12-7-111. Tax on fees charged. Each ~~professional~~ BAIL bonding agent who furnishes bail in a form other than in the form of the bail bond of an insurer shall pay to the division a tax on the fees charged for bail by such ~~professional~~ BAIL bonding agent. Such tax shall be the same as the tax levied on insurance companies by section 10-3-209 (1), C.R.S., and all applicable provisions of such section shall be applied to such ~~professional~~ BAIL bonding agent in the same manner, amounts, and procedure as they are applied to insurance companies in such section.

SECTION 13. 10-2-301 (6) (a) and (6) (c), Colorado Revised Statutes, 1994 Repl. Vol., are amended to read:

10-2-301. Continuing education requirement - advisory committee.
(6) (a) The commissioner shall be responsible for administering the continuing insurance education requirements UNDER THIS ARTICLE AND THE CONTINUING EDUCATION REQUIREMENTS UNDER ARTICLE 7 OF TITLE 12, C.R.S., and approving courses of instruction which qualify for such purposes. The commissioner shall promulgate such rules and regulations as ~~it~~ THE COMMISSIONER deems necessary to administer ~~the~~ SUCH continuing ~~insurance~~ education requirements, including the provisions and requirements of this section. The commissioner shall also promulgate regulations requiring that producers AND BAIL BONDING AGENTS LICENSED UNDER ARTICLE 7 OF TITLE 12, C.R.S., be required to provide to a continuing education administrator proof of compliance with the continuing education requirements as a condition of license renewal. For persons licensed pursuant to section 10-11-116 (1)

(c), ~~C.R.S.~~; compliance with the continuing legal education credits requirements of the Colorado supreme court shall be deemed to meet the requirements of this section.

(c) Each producer BAIL BONDING AGENT LICENSED UNDER ARTICLE 7 OF TITLE 12, C.R.S., shall be responsible for paying to the continuing education administrator a reasonable biennial fee for the operation of the continuing ~~insurance~~ education ~~program~~ PROGRAMS, which fee shall be used to administer the provisions of this section.

SECTION 14. The introductory portion to 16-4-104 (1) and 16-4-104 (1) (b) (III), (3) (a) (I), (3) (a) (III), and (3) (a) (V), Colorado Revised Statutes, 1986 Repl. Vol., as amended, are amended to read:

16-4-104. Bail bond - alternatives. (1) When the amount of bail is fixed by the judge of a court of record, ~~he~~ THE JUDGE shall also determine which of the following kinds of bond shall be required for the pretrial release of the defendant:

(b) The defendant may be released from custody upon execution of bond in the full amount of the bail to be secured in any one or more, or any combination of, the following ways:

(III) By sureties worth at least one and one-half the amount of bail set in the bond or by a ~~professional~~ BAIL bonding agent as defined in section 12-7-101 (~~+~~); (1), C.R.S.

(3) (a) (I) If the bond is to be secured by real estate, the ~~professional~~ BAIL bonding agent shall provide the property owner with a written disclosure statement in the following form at the time an initial application is filed:

"Disclosure of lien against real property

Do not sign this document until you read and understand it! This bail bond will be secured by real property you own or in which you have an interest. Failure to pay the bail bond premiums when due or the defendant's failure to comply with the conditions of bail could result in the loss of your property!"

(III) Before a property owner executes any instrument creating a lien against real property, the ~~professional~~ BAIL bonding agent shall provide the property owner with a completed copy of the instrument creating the lien against real property and the disclosure statement described in subparagraph (II) of this paragraph (a). If a ~~professional~~ BAIL bonding agent fails to comply fully with the requirements of subparagraphs (I) and (II) of this paragraph (a) and this subparagraph (III), any instrument creating a lien against real property shall be voidable.

(V) Any ~~professional~~ BAIL bonding agent who violates this paragraph (a) shall be liable to the property owner for all damages which may be sustained by reason of the violation, plus statutory damages in the sum of three hundred dollars. The property owner shall be entitled to recover court costs and reasonable attorney fees, as determined by the court, upon prevailing in any action brought to enforce the provisions of this paragraph (a).

SECTION 15. Effective date. This act shall take effect July 1, 1995.

SECTION 16. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 20, 1995