

Stricken language would be deleted from and underlined language would be added to present law.
Act 1283 of the Regular Session

State of Arkansas
89th General Assembly
Regular Session, 2013

As Engrossed: H3/25/13
A Bill

HOUSE BILL 1841

By: Representative Wright

For An Act To Be Entitled

AN ACT CONCERNING FEES FOR BAIL *BONDS*; *TO DECLARE AN EMERGENCY*; AND FOR OTHER PURPOSES.

Subtitle

CONCERNING FEES FOR BAIL BONDS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 14-52-111 is amended to read as follows:
14-52-111. Fees for bail or delivery bond.

~~Every~~ A municipal police department in this state ~~is authorized to~~ may charge and collect a ~~twenty dollar (\$20.00)~~ fee of twenty dollars (\$20.00) for taking and entering ~~every~~ a bail or delivery bond.

SECTION 2. Arkansas Code §§ 17-19-301(d) and (e), concerning bail bonds, are amended to read as follows:

(d)(1)(A) In addition to the ~~ten percent (10%)~~ ten-percent bail or appearance bond premium or compensation allowed in subsection (a) of this section, and ~~commencing~~ starting on ~~April 1, 1993~~ July 1, 2013, each licensed professional bail bond company, sheriff, or keeper of the jail shall charge and collect as a nonrefundable administrative and regulatory fee for the ~~State Insurance Department Trust Fund~~ board an additional ten dollars (\$10.00) per bond fee for giving bond for every bail and appearance bond issued by the licensed professional bail bond company by or through its individual licensees, sheriff, or keeper of the jail.

(B) The administrative and regulatory fees payable by these companies to the fund for the support and operation of the ~~department~~



board, and collected by the bail bond companies, sheriff, or keeper of the jail as required by this section, shall be reported and filed with the ~~Insurance Commissioner~~ board no later than fifteen (15) calendar days after the end of each calendar quarter, contemporaneous with the professional bail bond company's filing of its quarterly bail bond report with the ~~department~~ board.

(C) A notarized annual reconciliation of all ~~such~~ fees collected in the preceding calendar year for the fund shall be filed by each licensed professional bail bond company at a time and on forms prescribed by the ~~commissioner~~ board.

(D) The ~~commissioner~~ Executive Director of the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board may ~~in his or her discretion~~ grant an extension for good cause shown upon timely written request.

(E) ~~In no event shall the~~ The administrative and regulatory fees payable by the bail bond companies, sheriff, or keeper of the jail to the fund shall not exceed ten dollars (\$10.00) per bond, as required by this subchapter, exclusive of statutory licensure fees elsewhere in this chapter.

(F) Upon collection of the fees and any monetary penalties, the board shall deposit as special revenues:

(i) Sufficient fees and penalties directly into the Bail Bondsman Board Fund to provide for the personal services and operating expenses of the board under subsection (g) of this section; and

(ii) The remainder of all fees and penalties directly into the Domestic Peace Fund administered by the Arkansas Child Abuse/Rape/Domestic Violence Commission.

(2)(A) Absent an extension ~~the commissioner~~ granted by the executive director for good cause to a company and in addition to any license suspension or revocation, the ~~commissioner~~ executive director may ~~in his or her discretion~~ order after notice and a hearing a professional bail bond company failing timely to report or pay the regulatory fee to the fund by and through the ~~commissioner~~ executive director shall be liable to the fund for a monetary penalty of one hundred dollars (\$100) per day for each day of delinquency.

(B) The ~~commissioner~~ board may pursue any appropriate

legal remedies on behalf of the fund to collect any delinquent fees and penalties owed ~~pursuant to~~ under this section as special revenues to the fund.

(3) Upon collection of the regulatory fees and any monetary penalties payable to the fund and assessed under this section, the ~~commissioner~~ executive director shall deposit all fees and penalties directly into the fund as special revenues.

(4)(A) Upon failure of the bail bond company to remit the fees timely, the ~~commissioner~~ board may pursue civil legal remedies against the noncomplying bail bond company on behalf of the fund to recover the balance of the fees and any penalties owed.

(B)(i) ~~In its discretion, the~~ The board may also fine, or suspend or revoke the license of, any professional bail bond company failing to make a quarterly report or remit or pay timely the fees required by this section as required by law.

(ii) The board may promulgate rules for enforcement.

(5)(A) Other than sole proprietors licensed as professional bail bond companies, individual bail bondsmen are exempt from the duty ~~and responsibility~~ of payment of the administrative and regulatory fees to the ~~fund~~ Bail Bondsman Board Fund, except that the individual licenses of ~~such~~ individual employees of the professional bail bond company may be suspended or revoked by the ~~commissioner pursuant to~~ board under the administrative procedures provided in this chapter if the individual licensee fails to comply with his or her duties in proper collection of the bail bond premiums earmarked for later payment to the ~~fund pursuant to~~ Bail Bond Operating Fund under this subsection, if he or she converts ~~such~~ the moneys to his or her own use, or if he or she commits other infractions in regard to collection of such premium amounts.

(B) In those instances, the violations of the individual may in the ~~commissioner's~~ board's discretion be attributed to the employing professional bail bond company for good cause shown, and ~~its~~ the license of the employing professional bail bond company may be sanctioned by the ~~commissioner pursuant to~~ executive director under the administrative procedures provided in this chapter.

(C) Further, upon criminal conviction of the individual bondsman for theft of property in connection with fraudulent conversion of

those premium amounts due the ~~fund~~ Bail Bondsman Board Fund, the board shall revoke the individual's license, and ~~in its discretion~~, fine or suspend or revoke the license of, the employing professional bail bond company if it assisted the individual in such fraudulent conduct.

(6)(A) For purposes of § 17-19-205 requiring the professional bail bond company's deposit of a letter of credit or certificate of deposit for the faithful performance of its duties, the company's payment of the administrative and regulatory fee ~~as~~ required by this subsection ~~shall be considered to be and shall be a~~ is the duty of the licensee so as to allow the ~~commissioner~~ executive director to make a claim against the security deposit required in § 17-19-205 on behalf of the ~~fund~~ Bail Bondsman Board Fund for the balance of any owed and unpaid administrative and regulatory fees the professional bail bond company still owes to the ~~fund~~ Bail Bondsman Board Fund, and the ~~commissioner~~ executive director shall promptly ~~proceed to~~ make claims against ~~such~~ security deposits on behalf of the ~~fund~~ Bail Bondsman Board Fund, up to the limit of the company's deposit for any remaining fee balance due, in the manner provided in this subchapter for any claim against the deposit required ~~herein~~ in this subchapter.

(B) ~~Under no circumstances shall such deposits~~ Deposits held for the ~~fund~~ Bail Bondsman Board Fund, or fees or any moneys deposited into the ~~fund~~ Bail Bondsman Board Fund are ~~not~~ subject to any levy or assessment of any kind, including forfeiture claims, misconduct claims, or general creditor claims of the bail bond company, subject to garnishment or other creditors' remedies under Title 16 of this Code or other provisions of Arkansas law.

(e)(1) In addition to the premiums, compensation, and fees allowed in subsections (a) and (d) of this section, each sheriff, keeper of the jail, or bail bond company shall charge and collect twenty dollars (\$20.00) as a nonrefundable fee for the Arkansas Public Defender Commission.

(2) All fees collected shall be forwarded to the ~~commission~~ board for deposit into the Public Defender User Fee Fund.

(3)(A) The commission shall deposit the money collected into the existing account within the State Central Services Fund entitled "Public Defender User Fees".

(B)(i) Three dollars (\$3.00) of each fee collected under this section shall be remitted to each county in the state to defray the

operating expenses of each county's public defender office.

(ii) The commission shall remit quarterly to each county treasurer the county's portion of the fee collected under this section using the formula for the County Aid Fund under § 19-5-602.

(4) The fees collected by the bail bond companies required under this subsection shall be reported and filed with the commission quarterly.

(5) A notarized annual reconciliation of all fees collected in the preceding calendar year shall be filed by each bail bond company by February 15 on forms provided by the ~~commission~~ board.

(6) In addition to the bail or appearance bond premium or compensation allowed under this section and § 17-19-111, each licensed professional bail bond company, sheriff, or keeper of the jail shall charge and collect a processing fee of five dollars (\$5.00) on each bail bond in order to defray the surety's costs incurred by the quarterly and annual reports to the commission and to further defray the surety's costs incurred in the collection of all fees ~~due owing and collected~~ on behalf of the commission.

(7) The ~~commission~~ board may pursue any appropriate legal remedy for the collection of any delinquent fees owed under this subsection.

(8) Upon collection of any fees and penalties, the ~~commission~~ board shall deposit forward all fees and penalties directly to the commission for deposit into the Public Defender User Fees Fund account within the State Central Services Fund.

SECTION 3. Arkansas Code § 17-19-301, concerning bond requirements and the posting of a bondsmen list, is amended to add additional subsections to read as follows:

(f)(1) In addition to the premiums, compensation, and fees allowed under this chapter, each professional bail bond company, sheriff, keeper of the jail, or person authorized to take bail under § 16-84-102 shall charge and collect as a nonrefundable administrative bail bond fee for the Arkansas Counties Alcohol and Drug Abuse and Crime Prevention Program Fund an additional fee of six dollars (\$6.00) per bail bond for giving bond for every bail bond issued by the professional bail bond company by or through its individual licensees, sheriff, keeper of the jail, or any person authorized to take bail under § 16-84-102.

(2) The fees and penalties collected under this subsection by a professional bail bond company, sheriff, keeper of the jail, or a person authorized to take bail under § 16-84-102 shall be forwarded to the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board for deposit into the Arkansas Counties Alcohol and Drug Abuse and Crime Prevention Program Fund.

(3) The board shall deposit the money collected into the existing account within the Arkansas Counties Alcohol and Drug Abuse and Crime Prevention Program Fund to be used for the establishment and operation of alcohol abuse programs, drug abuse programs, crime prevention programs, and other related purposes in the counties.

(4) The fees required under this subsection and collected by the bail bond companies, sheriff, keeper of the jail, or persons authorized to take bail under § 16-84-102 shall be reported quarterly and filed with the board.

(5)(A) Within fifteen (15) days after receiving the quarterly fees from the bail bond companies, sheriff, keeper of the jail, or persons authorized to take bail under § 16-84-102, the board shall remit the fees collected under this subsection to the Arkansas Sheriffs' Association.

(B) The Arkansas Sheriffs' Association is the official organization of sheriffs in this state and is organized and exists under the Arkansas Nonprofit Corporation Act, §§ 4-28-201 – 4-28-206 and §§ 4-28-209 – 4-28-224.

(6) A notarized annual reconciliation of all fees collected in the preceding calendar year shall be filed on forms provided by the board by each professional bail bond company, sheriff, keeper of the jail, or person authorized to take bail under § 16-84-102 by February 15.

(7) The Department of Finance and Administration may pursue any appropriate legal remedy for the collection of delinquent fees and penalties owed under this subsection against an entity that has a duty to collect the fee under this subsection.

(8) The board shall promulgate rules to suspend, revoke, or take disciplinary action for noncompliance in failure to remit or pay fees under this section or in failure to report under this section.

(g)(1)(A) In addition to the premiums and fees allowed under this chapter, each professional bail bond company, sheriff, keeper of the jail, or

person authorized to take bail under § 16-84-102 shall charge and collect an additional fee of four dollars (\$4.00) per bail bond for every bail bond issued by the professional bail bond company by or through its individual licensees, sheriff, keeper of the jail, or any person authorized to take bail under § 16-84-102.

(B) The administrative bail bond fee is nonrefundable and shall be deposited into the Bail Bond Recovery Fund.

(2) The fees and penalties collected under this subsection by the professional bail bond company, sheriff, keeper of the jail, or a person authorized to take bail under § 16-84-102 shall be forwarded to the board for deposit into the Bail Bond Recovery Fund.

(3)(A) The board shall deposit the money collected into the existing account within the Bail Bond Recovery Fund.

(B) Use of the funds from the Bail Bond Recovery Fund shall be for professional bail bond forfeitures.

(4) The fees collected by the bail bond company, sheriff, keeper of the jail, or a person authorized to take bail under § 16-84-102 required under this subsection shall be reported quarterly and filed with the board.

(5) A notarized annual reconciliation of all fees collected in the preceding calendar year shall be filed on forms provided by the board by each professional bail bond company, sheriff, keeper of the jail, or person authorized to take bail under § 16-84-102 by February 15.

(6) The board may pursue any appropriate legal remedy for the collection of delinquent fees and penalties owed under this subsection against an entity that has a duty under this subsection to collect the fee.

(7) The board shall promulgate rules to suspend, revoke, or take disciplinary action for noncompliance in failure to remit or pay fees under this section or for failure to report under this section.

(h) A sheriff, keeper of the jail, and any bail bond company shall collect fees as required under §§ 14-52-111, 17-19-111, 17-19-301, and 21-6-307 and other fees as required by law.

*SECTION 4. Arkansas Code § 19-5-1088 is amended to read as follows:
19-5-1088. Bail Bondsman Board Fund.*

(a) There is ~~hereby~~ established on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a fund

to be known as the "Bail Bondsman Board Fund".

(b) This fund shall consist of those moneys ~~transferred from the State Insurance Department Trust Fund~~ collected under §§ 17-19-111 and 17-19-301 and other moneys from the collection of fees, there to be used exclusively for the operation of the Professional Bail Bond Company and Professional Bail Bondsman Licensing Board.

SECTION 5. Arkansas Code Title 19, Chapter 6, Subchapter 8, is amended to add additional sections to read as follows:

19-6-819. Arkansas Sheriffs' Association Education Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the "Arkansas Sheriffs' Association Education Fund".

(b) The fund shall be used by the Arkansas Sheriffs' Association exclusively for the performance of its duties as the official agency of the sheriffs of this state, including without limitation:

(1) Receiving and using funds for a continuing study of ways to improve the administration of sheriffs' offices; and

(2) Developing and improving education programs designed for sheriffs' offices in Arkansas.

19-6-820. Bail Bond Recovery Fund.

(a) There is created on the books of the Treasurer of State, the Auditor of State, and the Chief Fiscal Officer of the State a special revenue fund to be known as the "Bail Bond Recovery Fund".

(b)(1) All moneys collected under § 17-19-301(g) shall be deposited into the State Treasury to the credit of the fund as special revenues.

(2) The fund shall also consist of any other revenues authorized by law.

(c) The fund shall be used exclusively for the recovery of forfeited professional bonds.

(d) The Professional Bail Bond Company and Professional Bail Bondsman Licensing Board shall promulgate rules concerning the disbursements of the fund.

(e)(1) The board shall promulgate rules to suspend, revoke, or take disciplinary action for non-compliance in failure to remit or pay fees under

this section or for failure to report under this section.

(2) The Department of Finance and Administration may pursue any appropriate legal remedy for the collection of and remittance of the delinquent fees and penalties owed under this section against any entity that has a duty to collect or remit these fees.

/s/Wright

APPROVED: 04/16/2013