

CHAPTER 648

BAIL BOND AGENTS

648.25 Definitions. — The following words when used in this chapter have the meanings respectively ascribed to them in this section:

(1) “Bail bond agent “ means a limited surety agent or a professional bail bond agent as hereafter defined.

(2) “Department” means the Department of Insurance.

(3) “Managing general agent” means any individual, partnership, association, or corporation appointed or employed by an insurer to supervise or manage the bail bond business written in this state by limited surety agents appointed by the insurer.

(4) “Insurer” means any domestic, foreign, or alien surety company which has been authorized to transact surety business in this state.

(5) “Agency” means any business location at which a licensed and appointed bail bond agent engages in any activity or employs individuals to engage in any activity which by law may be performed only by a licensed and appointed bail bond agent.

(6) “Limited surety agent” means any individual appointed by an insurer by power of attorney to execute or countersign bail bonds in connection with judicial proceedings who receives or is promised money or other things of value therefor.

(7) “Professional bail bond agent “ means any person who pledges United States currency, United States postal money orders, or cashier’s checks as security for a bail bond in connection with a judicial proceeding and receives or is promised therefor money or other things of value.

(8) “Runner” means a person employed by a bail bond agent , insurer, or managing general agent for the purpose of assisting the bail bond agent in presenting the defendant in court when required or employed by the bail bond agent to assist in the apprehension and surrender of the defendant to the court or keeping the defendant under necessary surveillance. This does not affect the right of a bail bond agent or insurer to hire counsel or to obtain the assistance of law enforcement officers.

(9) “Temporary bail bond agent” means a person employed by a bail bond agent, insurer, or managing general agent and such licensee shall have the same authority conferred and authorized by law upon a licensed bail bond agent which shall include presenting defendants in court, apprehending, arresting, and surrendering defendants to the proper authorities, and keeping defendants under necessary surveillance; however, a temporary licensee shall not have the authority to execute or sign bonds, handle collateral receipts, or deliver bonds to appropriate authorities. A temporary licensee may not operate an agency or branch agency separate from the location of the supervising bail bond agent, managing general agent, or insurer by whom the licensee is employed. This does not affect the right of a bail bond

agent or insurer to hire counsel or to obtain the assistance of law enforcement officers.

648.26 Department of Insurance; administration. —

(1) The department shall administer the provisions of this chapter as provided in this chapter.

(a) The department may adopt rules necessary and proper to effect any of the duties or powers of the department provided in this chapter.

(b) The department may employ and discharge such employees, examiners, counsel, and other assistants as shall be deemed necessary, and it shall prescribe their duties; their compensation shall be the same as other state employees receive for similar services.

(2) The department shall adopt a seal by which its proceedings are authenticated. Any written instrument purporting to be a copy of any action, proceeding, or finding of fact by the department, or any record of the department authenticated by the seal, shall be accepted by all the courts of this state as prima facie evidence of the contents thereof.

(3) The papers, documents, reports, or any other investigatory records of the department are confidential and exempt from the provisions of s. 119.07(1) until such investigation is completed or ceases to be active. For the purpose of this section, an investigation is considered “active” while the investigation is being conducted by the department with a reasonable, good faith belief that it may lead to the filing of administrative, civil, or criminal proceedings. An investigation does not cease to be active if the department is proceeding with reasonable dispatch and there is good faith belief that action may be initiated by the department or other administrative or law enforcement agency.

648.266 Authority of department to investigate forms of pretrial release, make recommendations, and obtain pretrial release data; confidentiality.

— The department is authorized to monitor, investigate, and review the efficiency and equity of this chapter and chapter 903 and all forms of pretrial release used in this state and the United States and to make such recommendations to the Legislature as the department deems appropriate. The department may require any information or data related to pretrial release of criminal defendants to be submitted to the department from the courts and the law enforcement offices of this state and from any other public agency or private agency receiving public funds. Any information obtained by the department which is otherwise confidential as provided by law is confidential and exempt from the provisions of s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

648.27 Licenses and appointments; general.

— (1) A license may not be issued except in compliance with this chapter, and may not be issued except to an individual. A firm, partnership, associa-

tion, or corporation, as such, may not be licensed.

(2) For the protection of the people of this state, the department may not issue, renew, or permit to exist any license or appointment except in compliance with this chapter. The department may not issue, renew, or permit to exist a license or appointment for any individual found to be untrustworthy or incompetent who has had his or her eligibility to hold a license or appointment revoked, or who has not established to the satisfaction of the department that he or she is qualified therefor in accordance with this chapter.

(3) The department may propound any reasonable interrogatories to an applicant for a license or appointment under this chapter or on any renewal thereof, relating to his or her qualifications, residence, prospective place of business, and any other matters which are deemed necessary or expedient in order to protect the public and ascertain the qualifications of the applicant. The department may also conduct any reasonable inquiry or investigation it sees fit, relative to the determination of the applicant's fitness to be licensed or appointed or to continue to be licensed or appointed. Upon the request of the department, a law enforcement agency shall inform the department of any specific criminal charge filed against any applicant and the final disposition of such charge.

(4) If upon the basis of the completed application for a license or appointment and such further inquiry or investigation the department deems the applicant to be unfit as to character and background or lacking in one or more of the required qualifications for the license or appointment, the department shall disapprove the application.

(5) (a) The license of a bail bond agent shall continue in force, without further examination unless deemed necessary by the department, until suspended, revoked, or otherwise terminated.

(b) The license of a temporary bail bond agent or runner shall continue in force until suspended, revoked, or otherwise terminated.

(6) The original license issued to a licensee under this chapter shall remain outstanding and in effect for so long as the license represented thereby continues in force as provided in this section. The department may at any time require the licensee to produce his or her department-issued photo identification.

(7) Any person who represents a surety company, whose duties are restricted to bail bonds, and who comes under the definition of "service representative" as provided in s. 626.081 shall be licensed and appointed as a bail bond agent .

(8) An application for a managing general agent's license must be made by an insurer who proposes to employ or appoint an individual, partnership, association, or corporation as a managing general agent. Such application shall contain the information required by s. 626.744, and the applicant shall pay the same fee as a managing general agent licensed pursuant to that section.

(9) If, upon application for an appointment and

such investigation as the department may make, it appears to the department that an individual has been actively engaged or is currently actively engaged in bail bond activities without being appointed as required, the department may, if it finds that such failure to be appointed is an error on the part of the insurer or employer so represented, issue the appointment as applied for, but subject to the condition that, before the appointment is issued, all fees and taxes which would have been due had the applicant been so appointed during such current and prior periods, together with a continuation fee for such current and prior terms of appointment, shall be paid to the department.

648.279 Scope of license. —

The issuance of a license pursuant to the provisions of this chapter shall confer upon the holder the right to perform all duties and powers as authorized or conferred by the laws of this state.

648.29 Build-up funds posted by bail bond agent . —

(1) All build-up funds posted by a bail bond agent or managing general agent, either with the insurer or managing general agent representing such insurer, must be maintained in an individual build-up trust account for the bail bond agent by the insurer or the managing general agent in a bank or savings and loan association in this state jointly in the name of the bail bond agent and the surety or managing general agent or in trust for the bail bond agent by the surety or managing general agent and is open to inspection and examination by the department at all times. An accounting of all such funds shall be maintained which designates the amounts collected on each bond written.

(2) Build-up funds may not exceed 40 percent of the premium as established by the agent's contract agreement with the insurer or managing general agent. Build-up funds received shall be immediately deposited to the build-up trust account. Interest on such accounts shall accrue to the bail bond agent .

(3) Upon termination of the bail bond agent's contract and discharge of liabilities on the bonds written, build-up funds are due and payable to the bail bond agent not later than 6 months after final discharge of liabilities.

(4) Each insurer authorized to write bail bonds in this state and each managing general agent must furnish to the department a certified copy of a statement listing each build-up trust account and the balance therein by March 1 of each year.

648.30 Licensure and appointment required. —

(1) A person may not act in the capacity of a bail bond agent, temporary bail bond agent, or runner or perform any of the functions, duties, or powers prescribed for bail bond agents or runners under this chapter unless that person is qualified, licensed, and appointed as provided in this chapter.

(2) No person shall represent himself or herself to be a bail enforcement agent, bounty hunter, or other similar title in this state.

(3) No person, other than a certified law enforcement officer, shall be authorized to apprehend, detain, or arrest a principal on a bond, wherever issued, unless that person is qualified, licensed, and appointed as provided in this chapter or licensed as a bail bond agent by the state where the bond was written.

(4) Any person who violates any provision of this section commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

648.31 Appointment taxes and fees. —

The department shall collect in advance all appointment taxes and fees for the issuance of any appointment to a bail bond agent, temporary bail bond agent, or runner, as provided in s. 624.501.

648.315 Number of applications for licensure required. —

After a license as a bail bond agent has been issued to an individual, the same individual is not required to file another application for a similar license unless:

(1) Specifically ordered by the department to complete a new application; or

(2) A period of 24 months transpires between the time the licensee's last limited surety agent or professional bail bond agent's appointment is terminated and the date an application for a similar appointment is received by the department.

648.33 Bail bond rates. —

(1) Bail bond rates are subject to the provisions of part I of chapter 627 of the insurance code.

(2) It is unlawful for a bail bond agent to execute a bail bond without charging a premium therefor, and the premium rate may not exceed or be less than the premium rate as filed with and approved by the department.

(3) Any person who violates this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

648.34 Bail bond agents ; qualifications. —

(1) An application for licensure as a bail bond agent must be submitted on forms prescribed by the department.

(2) To qualify as a bail bond agent , it must affirmatively appear at the time of application and throughout the period of licensure that the applicant has complied with the provisions of s. 648.355 and has obtained a temporary license pursuant to such section and:

(a) The applicant is a natural person who has reached the age of 18 years.

(b) The applicant is a bona fide resident of this state. An individual who is a bona fide resident of this state shall be deemed to meet the residence requirement of this paragraph, notwithstanding the

existence, at the time of application for license, of a license in the applicant's name on the records of another state as a resident licensee of such other state, if the applicant furnishes a letter of clearance satisfactory to the department that his or her resident licenses have been canceled or changed to a nonresident basis and that he or she is in good standing.

(c) The place of business of the applicant will be located in this state and in the county where the applicant will maintain his or her records and be actively engaged in the bail bond business and maintain an agency accessible to the public which is open for reasonable business hours.

(d) The applicant is vouched for and recommended upon sworn statements filed with the department by at least three reputable citizens who are residents of the same counties in which the applicant proposes to engage in the bail bond business.

(e) The applicant is a person of high character and approved integrity and has not been convicted of or pleaded guilty or no contest to a felony, a crime involving moral turpitude, or a crime punishable by imprisonment of 1 year or more under the law of any state, territory, or country, whether or not a judgment or conviction has been entered.

(f) The applicant has passed any required examination.

(3) The department may collect a fee necessary to cover the cost of a character and credit report made by an established and reputable independent reporting service. The fee shall be deposited to the credit of the Insurance Commissioner's Regulatory Trust Fund. Any information so furnished is confidential and exempt from the provisions of s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(4) The applicant shall furnish, with his or her application, a complete set of his or her fingerprints and a recent credential-sized, fullface photograph of the applicant . The applicant's fingerprints shall be certified by an authorized law enforcement officer. The department shall not authorize an applicant to take the required examination until the department has received a report from the Department of Law Enforcement and the Federal Bureau of Investigation relative to the existence or nonexistence of a criminal history report based on the applicant's fingerprints.

(5) The department shall conduct a comprehensive investigation of each applicant, including a background check.

(6) The provisions of s. 112.011 do not apply to bail bond agents or runners or to applicants for licensure as bail bond agents or runners.

648.35 Professional bail bond agent ; qualifications. — In addition to the qualifications prescribed in s. 648.34, to qualify as a professional bail bond agent an applicant shall:

(1) File with his or her application for licensure and with each application for renewal or continua-

tion of his or her appointment a detailed financial statement under oath; and

(2) File with his or her application for licensure the rating plan proposed for use in writing bail bonds. Such rating plan must be approved by the department prior to issuance of the license.

648.355 Temporary limited license as limited surety agent or professional bail bond agent; pending examination. —

(1) The department may, in its discretion, issue a temporary license as a limited surety agent or professional bail bond agent, subject to the following conditions:

(a) The applicant is a natural person at least 18 years of age.

(b) The applicant is a bona fide resident of this state. An individual who is a bona fide resident of this state shall be deemed to meet the residence requirement of this paragraph, notwithstanding the existence, at the time of application for temporary license, of a license in the individual's name on the records of another state as a resident licensee of such other state, if the applicant furnishes a letter of clearance satisfactory to the department that the individual's resident licenses have been canceled or changed to a nonresident basis and that the individual is in good standing.

(c) The applicant is a person of high character and approved integrity and has never been convicted of or pleaded guilty or no contest to a felony, a crime involving moral turpitude, or a crime punishable by imprisonment of 1 year or more under the law of any state, territory, or country, whether or not a judgment or conviction is entered.

(d) Within 4 years prior to the date of application for a temporary license, the applicant has successfully completed a basic certification course in the criminal justice system, consisting of not less than 80 hours of classroom instruction and has successfully completed a correspondence course for bail bond agents approved by the department.

(e) The applicant must be employed at the time of application, and at all times throughout the existence of the temporary license, by only one licensed and appointed supervising bail bond agent, managing general agent, or authorized insurer, who supervises the work of the applicant and is responsible for the licensee's conduct in the bail bond business.

(f) The application must be accompanied by a certificate of employment and a report as to the applicant's integrity and moral character on a form prescribed by the department and executed by the employer.

(g) The applicant shall file with the department statements by at least three reputable citizens who are residents of the same counties in which the applicant proposes to engage as a temporary licensee.

(h) The applicant's employer is responsible for the bail bonding acts of any licensee under this section.

(2) All applicable license fees, as prescribed in s. 624.501, must be paid before issuance of the tem-

porary license.

(3) The temporary license shall be effective for a period of 1 year, subject to earlier termination at the request of the employer or if suspended or revoked by the department.

(4) The applicant shall furnish, with the application for temporary license, a complete set of the applicant's fingerprints and a recent credential-sized, fullface photograph of the applicant. The applicant's fingerprints shall be certified by an authorized law enforcement officer. The department shall not issue a temporary license under this section until the department has received a report from the Department of Law Enforcement and the Federal Bureau of Investigation relative to the existence or nonexistence of a criminal history report based on the applicant's fingerprints.

(5) The department may collect a fee necessary to cover the cost of a character and credit report made by an established and reputable independent reporting service. The fee shall be deposited to the credit of the Insurance Commissioner's Regulatory Trust Fund.

(6) After licensure as a temporary licensee for at least 6 months, such licensee may file an application for and become eligible for a regular bail bond agent's license based on the licensee's experience in the bail bond business and education pursuant to paragraph (1)(d) and, if otherwise qualified, take the required bail bond agent's licensure examination.

(7) In no event shall a temporary licensee licensed under this section perform any of the functions for which a bail bond agent's license is required after expiration of the temporary license without having passed the written examination as for a regular bail bond agent's license.

(8) Under the temporary license, the licensee shall have the same authority conferred and authorized by the laws of this state upon a licensed bail bond agent which shall include presenting defendants in court, apprehending, arresting, and surrendering defendants to the proper authorities, and keeping defendants under necessary surveillance; however, a temporary licensee shall not have the authority to execute or sign bonds, handle collateral receipts, or deliver bonds to appropriate authorities. A temporary licensee may not operate an agency or branch agency separate from the location of the supervising bail bond agent, managing general agent, or insurer by whom the licensee is employed.

(9) The department shall not issue a temporary bail bond agent's license to any individual who has held such a temporary license in this state within 2 years after the expiration of such temporary bail bond agent's license.

648.36 Bail bond agent's records. —

Every bail bond agent must maintain in his or her office such records of bail bonds executed or countersigned by him to enable the public to obtain all necessary information concerning such bail bonds for at least 3 years after the liability of the surety has been terminated. Such records shall be open to ex-

amination, inspection, and photographic reproduction by the department or an authorized representative of the insurer or managing general agent, or agents of the department, at all times, and the department may at any time require the licensee to furnish to it, in such manner or form as it requires, any information concerning the bail bond business of such licensee.

648.365 Statistical reporting requirements; penalty for failure to comply . —

(1) Each insurer and each bail bond agent who writes bail bonds in this state, shall maintain and transmit the following information, based on their Florida bail bond business, to the department when requested and shall report the information separately for each company represented but only insurers shall report the information specified in paragraph (a), paragraph (l), and paragraph (m):

(a) Commissions paid.

(b) The number of, and the total dollar amount of, bonds executed.

(c) The number of, and the total dollar amount of, bonds declared forfeited.

(d) The number of, and the total dollar amount of, forfeitures discharged, remitted, or otherwise recovered prior to payment for any reason.

(e) The number of, and the total dollar amount of, forfeitures discharged, remitted, or otherwise recovered prior to payment due to the apprehension of the defendant by the bail bond agent .

(f) The number of, and the total dollar amount of, judgments entered.

(g) The number of, and the total dollar amount of, forfeitures paid and subsequently recovered from the court by discharge or remission or otherwise.

(h) A list of every outstanding or unpaid forfeiture, estreature, and judgment, with the case number and the name of the court in which such forfeiture, estreature, or judgment is recorded and the name of each agency or firm that employs the bail bond agent .

(i) The number of, and the total dollar amount of, bonds for which collateral was accepted.

(j) The actual realized value of collateral converted, excluding the cost of converting the collateral.

(k) The cost of converting collateral.

(l) The underwriting gain or loss.

(m) The net investment gain or loss allocated to the flow of funds associated with Florida business.

(n) Such additional information as the department may require in order to:

1. Evaluate the reasonableness of rates or assure that such rates are not excessive or unfairly discriminatory.

2. Evaluate the financial condition or trade practices of bail bond agents and sureties executing bail bonds.

3. Evaluate the performance of the commercial bail bond industry in accordance with appropriate criminal justice system goals and standards.

Each bail bond agent shall submit a copy of such

information to each insurer he or she represents.

(2) Any person who intentionally fails to provide the information in this section when requested by the department, intentionally provides incorrect or misleading information, or intentionally omits any required information commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

648.37 Runners; qualifications. —

(1) Applications for licensure as a runner must be submitted on forms prescribed by the department. All individuals who on July 1, 1996, hold a runner's license and appointment may remain licensed and appointed under the runner's license and may renew their appointments but no license or appointment which has been terminated, not renewed, suspended, or revoked shall be reinstated and no new additional appointments shall be issued.

(2) In order for an applicant to qualify as a runner, it must affirmatively appear at the time of application and throughout the period of licensure that:

(a) The applicant is a natural person who has reached the age of 18 years.

(b) The applicant is a bona fide resident of this state. An individual who is a bona fide resident of this state shall be deemed to meet the residence requirement of this paragraph, notwithstanding the existence, at the time of application for license, of a license in the individual's name on the records of another state as a resident licensee of such other state, if the applicant furnishes a letter of clearance satisfactory to the department that the individual's resident licenses have been canceled or changed to a nonresident basis and that the individual is in good standing.

(c) The applicant will be employed by only one bail bond agent, insurer, or managing general agent who will supervise the work of the applicant and be responsible for the runner's conduct in the bail bond business.

(d) The application is endorsed by the appointing bail bond agent, insurer, or managing general agent who is obligated to supervise the runner's activities .

(e) The applicant is a person of high character and approved integrity and has never been convicted of or pleaded guilty or no contest to a felony, a crime involving moral turpitude, or a crime punishable by imprisonment of 1 year or more under the law of any state, territory, or country, whether or not a judgment or conviction is entered.

(f) Within 4 years prior to the date of his or her application, the applicant has successfully completed a basic certification course in the criminal justice system, consisting of not less than 20 hours approved by the department.

(3) The department may collect a fee necessary to cover the cost of a character and credit report made by an established and reputable independent reporting service. The fee shall be deposited to the credit of the Insurance Commissioner's Regulatory Trust Fund. Any information so furnished is con-

fidential and exempt from the provisions of s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(4) The applicant shall furnish, with the application, a complete set of his or her fingerprints and a recent credential-sized, fullface photograph of the applicant. The applicant's fingerprints shall be certified by an authorized law enforcement officer.

(5) The applicant shall file with the department statements by at least three reputable citizens who are residents of the same counties in which the applicant proposes to be engaged as a runner.

(6) The department shall conduct a comprehensive investigation of each applicant, including a background check.

648.38 Licensure examination for bail bond agents ; time; place; fees; scope. —

(1) Upon approval by the department of a licensure application, the applicant for licensure as a bail bond agent shall appear in person to take a written examination prepared by the department, or by a person designated by the department for that purpose, testing the applicant's ability and qualifications to be a bail bond agent. The department shall determine the minimum performance level required for passage of the examination in order to ensure that the applicant has an adequate level of competence and knowledge of the duties and responsibilities of a bail bond agent.

(2) The department or a person designated by the department shall mail written notice of the time and place of the examination to each applicant for licensure required to take an examination who will be eligible to take the examination as of the examination date. The notice shall be so mailed, postage prepaid, and addressed to the applicant at his or her address shown on his or her application for licensure or at such other address as requested by the applicant in writing filed with the department prior to the mailing of the notice. Notice shall be deemed given when so mailed.

(3) Prior to being permitted to take an examination, each applicant must pay the department or a person designated by the department an examination fee. The fee for examination is not refundable.

(4) The examination shall be held in an adequate and designated examination center in this state.

(5) The applicant must appear in person and take the examination for licensure at the time and place specified in the written notice.

(6) The examination shall be conducted by an employee of the department or a person designated by the department for that purpose.

(7) All examinations shall be given and graded in a fair and impartial manner and without unfair discrimination in favor of or against any particular applicant.

(8) The scope of the examination shall be as broad as the bail bond business.

(9) Failure of the applicant to secure approval

of the department does not preclude him or her from applying for licensure as many times as he or she desires, but an application may not be considered by the department within 30 days after the date upon which the department denied the last application.

(10) Any bail bond agent who successfully passes an examination and is subsequently licensed as a bail bond agent must be appointed within 24 months after the date of licensure or be subject to another examination unless failure to be so appointed was due to military service, in which case the period of time in which another examination is not required may, in the department's discretion, be extended to 12 months following the date of discharge from military service, if the military service does not exceed 3 years. An extension of more than 4 years may not be granted under this subsection.

648.381 Reexamination. —

Any applicant for licensure who has taken an examination and failed to make a passing grade, has failed to appear for the examination, or has failed to take or complete the examination at the time and place specified in the notice of the department may take additional examinations upon the filing of an application for reexamination, with applicable fees. The failure of an applicant to pass an examination or the failure to appear for the examination or to take or complete the examination does not preclude the applicant from taking subsequent examinations.

648.382 Appointment of bail bond agents, temporary bail bond agents, and runners; effective date of appointment. —

(1) Each insurer appointing a bail bond agent and each insurer, managing general agent, or bail bond agent appointing a temporary bail bond agent or runner in this state must file the appointment with the department and, at the same time, pay the applicable appointment fees and taxes. A person appointed under this section must hold a valid bail bond agent's, temporary bail bond agent's, or runner's license.

(2) Prior to any appointment, an appropriate officer or official of the appointing insurer in the case of a bail bond agent or an insurer, managing general agent, or bail bond agent in the case of a temporary bail bond agent or runner, must submit a certified statement or affidavit to the department stating what investigation has been made concerning the proposed appointee and the proposed appointee's background and the appointing person's opinion to the best of his or her knowledge and belief as to the moral character, fitness, and reputation of the proposed appointee and any other information that the department reasonably requires concerning the proposed appointee.

(3) Prior to any appointment of a bail bond agent, the appointing insurer must certify to the department that the insurer will be bound by the acts of the bail bond agent acting within the scope of his or her appointment, and, in the case of a temporary bail bond agent or runner, the appointing insurer,

managing general agent, or bail bond agent, as the case may be, must certify to the department that he or she will supervise the temporary bail bond agent's or runner's activities.

(4) Each appointing insurer, managing general agent, or bail bond agent must advise the department in writing within 5 days after receiving notice that an appointee has been found guilty of a felony.

(5) A list of current appointments must be submitted to the department each month but in no case later than 45 days after the date of appointment. All appointments are effective as of the date indicated on the appointment form.

648.383 Renewal, continuation, reinstatement, and termination of appointment; bail bond agents and runners. —

(1) The appointment of a bail bond agent or runner shall continue in force unless suspended, revoked, or otherwise terminated, subject to a renewal request filed by the appointing entity in the appointee's birth month and every 24 months thereafter. A renewal request must be filed with the department along with payment of the renewal appointment fee and taxes as prescribed in s. 624.501.

(2) Each appointing person must file with the department the lists, statement, and information as to each bail bond agent or runner whose appointment is being renewed, accompanied by payment of the applicable renewal fees and taxes as prescribed in s. 624.501, by a date established by the department following the month during which the appointment will expire.

(3) An appointment may be renewed by the department without penalty if the information required under subsection (2) is received by the department on or prior to the date established by the department for renewal, and such appointment is effective on the day the appointment was scheduled to expire.

(4) If the information required under subsection (2) is received by the department after the date established by the department for renewal, the appointment may be renewed by the department if an additional appointment, continuation, and reinstatement fee accompanies the application as required under s. 624.501.

648.384 Effect of expiration of appointment; bail bond agents and runners. —

(1) Upon the expiration of any person's appointment as provided in s. 648.383, such person is without any authority to engage or attempt to engage in any activity requiring such appointment.

(2) If a bail bond agent fails to maintain an appointment with an insurer or if a runner fails to maintain an appointment with an insurer, managing general agent, or bail bond agent during any 24-month period, the bail bond agent or runner may not be granted a reappointment until he or she qualifies as a first-time applicant.

648.385 Continuing education required; application; exceptions; requirements; penalties. —

(1) The purpose of this section is to establish requirements and standards for continuing education courses for persons authorized to write bail bonds in this state.

(2)(a) For compliance dates beginning in January 1997 and thereafter, each person subject to the provisions of this chapter must complete a minimum of 14 hours of continuing education courses every 2 years in courses approved by the department. Compliance with continuing education requirements is a condition precedent to the issuance, continuation, or renewal of any appointment subject to the provisions of this chapter.

(b) A person teaching any approved course of instruction or lecturing at any approved seminar and attending the entire course or seminar shall qualify for the same number of classroom hours as would be granted to a person taking and successfully completing such course, seminar, or program. Credit shall be limited to the number of hours actually taught unless a person attends the entire course or seminar.

(c) For good cause shown, the department may grant an extension of time during which the requirements imposed by this section may be completed, but such extension of time may not exceed 1 year.

(3)(a) Any bail-related course developed or sponsored by any authorized insurer or recognized bail bond agents' association, or any independent study program of instruction, subject to approval by the department, qualifies for the equivalency of the number of classroom hours assigned to such course by the department. However, unless otherwise provided in this section, continuing education credit may not be credited toward meeting the requirements of this section unless the course is provided by classroom instruction or results in a monitored examination.

(b) Each person or entity sponsoring a course for continuing education credit must furnish, within 30 days after completion of the course, in a form satisfactory to the department or its designee, a written and certified roster showing the name and license number of all persons successfully completing such course and requesting credit, accompanied by the required fee. The department shall refuse to issue, continue, or renew the appointment of any bail bond agent who has not had the continuing education requirements certified unless the agent has been granted an extension by the department.

648.386 Qualifications for prelicensing and continuing education schools and instructors. —

(1) SCHOOLS AND CURRICULUM FOR PRELICENSING SCHOOLS. — In order to be considered for approval and certification as an approved limited surety agent and professional bail bond agent prelicensing school, such entity must:

(a)1. Offer a minimum of two 80-hour classroom instruction basic certification courses in the criminal justice system per calendar year unless a reduced number of course offerings per calendar year is warranted in accordance with rules promulgated by the department; or

2. Offer a department-approved correspondence course pursuant to department rules.

(b) Submit a prelicensing course curriculum to the Department of Insurance for approval.

(c) If applicable, offer prelicensing classes which are taught by instructors approved by the department.

(2) **SCHOOLS AND CURRICULUM FOR CONTINUING EDUCATION SCHOOLS.** — In order to be considered for approval and certification as an approved limited surety agent and professional bail bond agent continuing education school, such entity must:

(a) Provide a minimum of three continuing education classes per calendar year.

(b) Submit a course curriculum to the Department of Insurance for approval.

(c) Offer continuing education classes which are comprised of a minimum of 2 hours of approved coursework and are taught by an approved supervising instructor.

(3) **GEOGRAPHIC REQUIREMENTS.** — Any provider approved under this section by the department to offer prelicensing courses or continuing education courses shall be required to offer such courses in at least two geographic areas of the state until such time that the department determines that there are adequate providers statewide to provide these courses to applicants and licensees.

(4) **INSTRUCTOR'S DUTIES AND QUALIFICATIONS.** —

(a) Each course must have a supervising instructor who is approved by the department. The supervising instructor is responsible for:

1. All course instructors.

2. All guest lecturers.

3. The course outlines and curriculum.

4. Certification of each attending limited surety agent or professional bail bond agent.

5. Completion of all required forms.

6. Assuring that the course is approved.

(b) In order to obtain department approval as a supervising instructor, the following qualifications must be met:

1. During the past 10 years, the person must have had at least 5 years' experience as a manager or officer of a managing general agent in this state as prescribed in s. 648.388;

2. During the past 10 years, the person must have had at least 5 years' experience as a manager or officer of an insurance company authorized to and actively engaged in underwriting bail in this state, provided there is a showing that the manager's or officer's experience is directly related to the bail bond industry; or

3. The person has been a licensed bail bond agent in this state for at least 10 years.

(c) In order to obtain department approval as an instructor or guest lecturer, the person must be qualified by education or experience in the specific area of instruction as prescribed by department rules.

(d) A person teaching any approved course of instruction or lecturing at any approved seminar and

attending the entire course or seminar shall qualify for the same number of classroom hours as would be granted to a person taking and successfully completing such course, seminar, or program. Credit shall be limited to the number of hours actually taught unless a person attends the entire course or seminar.

(e) The department shall adopt rules necessary to carry out the duties conferred upon it under this section.

648.39 Termination of appointment of managing general agents, bail bond agents, temporary bail bond agents, and runners. —

(1) An insurer who terminates the appointment of a managing general agent, bail bond agent, temporary bail bond agent, or runner shall, within 10 days after such termination, file written notice thereof with the department together with a statement that it has given or mailed notice to the managing general agent, bail bond agent, temporary bail bond agent, or runner. Such notice filed with the department must state the reasons, if any, for such termination. Information so furnished the department is confidential and exempt from the provisions of s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

(2) Each insurer shall, within 5 days after terminating the appointment of any managing general agent, bail bond agent, temporary bail bond agent, or runner, give written notice thereof to each clerk of the circuit court and sheriff with whom such person is registered.

(3) An insurer that terminates the appointment of a managing general agent, bail bond agent, temporary bail bond agent, or runner may authorize such person to continue to attempt the arrest and surrender of a defendant for whom a surety bond had been written by the bail bond agent prior to termination and to seek discharge of forfeitures and judgments as provided in chapter 903.

648.40 Application for appointment of professional bail bond agents ; termination. —

(1) Upon licensure as a professional bail bond agent, the licensee shall file an application for appointment with the department together with the required appointment fees and taxes as prescribed in s. 624.501.

(2) Any professional bail bond agent who discontinues writing bail bonds during the period for which he or she is appointed must notify each clerk of the circuit court and each sheriff with whom he or she is registered and the department within 30 days after such discontinuance.

648.41 Termination of appointment of temporary bail bond agents or runners. —

A bail bond agent, insurer, or managing general agent terminating the appointment of a temporary bail bond agent or runner must, within 10 days, file written notice thereof with the department, together with a statement that notice has been given or mailed

to the temporary bail bond agent or runner. Such notice filed with the department shall state the reasons, if any, for such termination. Information so furnished the department is confidential and exempt from the provisions of s. 119.07(1). This exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.14.

648.42 Registration of bail bond agents . —

A bail bond agent may not become a surety on an undertaking unless he or she has registered in the office of the sheriff and with the clerk of the circuit court in the county in which the bail bond agent resides. The bail bond agent may register in a like manner in any other county, and any bail bond agent shall file a certified copy of his or her appointment by power of attorney from each insurer which he or she represents as a bail bond agent with each of such officers. Registration and filing of a certified copy of renewed power of attorney shall be performed by April 1 of each odd-numbered year. The clerk of the circuit court and the sheriff shall not permit the registration of a bail bond agent unless such bail bond agent is currently licensed and appointed by the department. Nothing in this section shall prevent the registration of a temporary licensee at the jail for the purposes of enabling the licensee to perform the duties under such license as set forth in this chapter.

648.421 Notice of change of address or telephone number. —

Each licensee under this chapter shall notify in writing the department, insurer, managing general agent, and the clerk of each court in which the licensee is registered within 10 working days after a change in the licensee's principal business address or telephone number. The licensee shall also notify the department within 10 working days after a change of the name, address, or telephone number of each agency or firm for which he or she writes bonds and any change in the licensee's name, home address, or telephone number.

648.43 Power of attorney; to be approved by department; filing of copies; notification of transfer bond. —

(1) Every insurer engaged in the writing of bail bonds through bail bond agents in this state shall submit and have approved by the department a sample power of attorney, which will be the only form of power of attorney the insurer will issue to bail bond agents in this state.

(2) Every professional bail bond agent who authorizes a licensed professional bail bond agent directly employed and appointed by him or her to sign his or her name to bonds must file a copy of the power of attorney given to the appointed professional bail bond agent with the sheriff and the clerk of the circuit court in the county in which he or she resides and with the department. Such power of attorney shall remain in full force and effect until written notice revoking the power of attorney has been received by the above-named officials.

(3) Every bail bond agent who executes or countersigns a transfer bond shall indicate in writing on the bond the name and address of the referring bail bond agent .

648.44 Prohibitions; penalty. —

(1) A bail bond agent, temporary bail bond agent, or runner may not:

(a) Suggest or advise the employment of, or name for employment, any particular attorney to represent his principal.

(b) Directly or indirectly solicit business in or on the property or grounds of a jail, prison, or other place where prisoners are confined or in or on the property or grounds of any court. The term "solicitation" includes the distribution of business cards, print advertising, or other written information directed to prisoners or potential indemnitors, unless a request is initiated by the prisoner or a potential indemnitor. Permissible print advertising in the jail is strictly limited to a listing in a telephone directory and the posting of the bail bond agency's name, address, and telephone number in a designated location within the jail.

(c) Wear or display any identification other than the department issued or approved license or approved identification in or on the property or grounds of a jail, prison, or other place where prisoners are confined or in or on the property or grounds of any court.

(d) Pay a fee or rebate or give or promise anything of value to a jailer, policeman, peace officer, or committing magistrate or any other person who has power to arrest or to hold in custody or to any public official or public employee in order to secure a settlement, compromise, remission, or reduction of the amount of any bail bond or estreatment thereof.

(e) Pay a fee or rebate or give anything of value to an attorney in a bail bond matter, except in defense of any action on a bond.

(f) Pay a fee or rebate or give or promise anything of value to the principal or anyone in his or her behalf.

(g) Participate in the capacity of an attorney at a trial or hearing of one on whose bond he or she is surety.

(h) Loiter in or about a jail, courthouse, or where prisoners are confined.

(i) Accept anything of value from a principal for providing a bail bond except the premium and transfer fee authorized by the department, except that the bail bond agent may accept collateral security or other indemnity from the principal or another person in accordance with the provisions of s. 648.442, together with documentary stamp taxes, if applicable. No fees, expenses, or charges of any kind shall be permitted to be deducted from the collateral held or any return premium due, except as authorized by this chapter or rule of the department. A bail bond agent may, upon written agreement with another party, receive a fee or compensation for returning to custody an individual who has fled the jurisdiction of the court or caused the forfeiture of a bond.

(j) Write more than one power of attorney per charge on a bond, except in the case of a cosurety.

(k) Execute a bond in this state on his or her own behalf.

(l) Execute a bond in this state if a judgment has been entered on a bond executed by the bail bond agent, which has remained unpaid for 60 days, unless the full amount of the judgment is deposited with the clerk in accordance with s. 903.27(5).

(m) Make a statement or representation to a court, unless such statement or representation is under oath. Such statement or representation may not be false, misleading, or deceptive.

(2) The following persons or classes shall not be bail bond agents, temporary bail bond agents, runners, or employees of a bail bond agent or a bail bond business and shall not directly or indirectly receive any benefits from the execution of any bail bond:

(a) Jailers or persons employed in any jail.

(b) Police officers or employees of any police department or law enforcement agency.

(c) Committing magistrates, employees of a court, or employees of the clerk of any court.

(d) Sheriffs and deputy sheriffs or employees of any sheriff's department.

(e) Attorneys.

(f) Persons having the power to arrest or persons who have authority over or control of federal, state, county, or municipal prisoners.

(3) A bail bond agent may not sign or countersign in blank any bond, give a power of attorney to, or otherwise authorize, anyone to countersign his or her name to bonds unless the person so authorized is a licensed and appointed bail bond agent directly employed by the bail bond agent giving such power of attorney.

(4) A place of business, including a branch office, may not be established, opened, or maintained unless it is under the active full-time charge of a licensed and appointed bail bond agent.

(5) Except as between licensed and appointed bail bond agents, a bail bond agent may not divide with others, or share in, any commissions payable on account of any bail bond.

(6)(a) No bail bond agency shall advertise as or hold itself out to be a bail bond or surety company.

(b) Any misleading or false advertisement or deceptive trade practice is prohibited as provided in part X of chapter 626.

(c) The advertisement of reduced premium rates is prohibited.

(7) Any permissible advertising by a bail bond agent or agency must include the address of record filed with the department.

(8) (a) A person who has been convicted of or who has pleaded guilty or no contest to a felony or a crime involving moral turpitude or a crime punishable by imprisonment of 1 year or more under the law of any state, territory, or country, regardless of whether adjudication of guilt was withheld, may not participate as a director, officer, manager, or employee of any bail bond agency or office thereof or exercise direct or indirect control in any manner in

such agency or office or own shares in any closely held corporation which has any interest in any bail bond business. Such restrictions on engaging in the bail bond business shall continue to apply during a pending appeal.

(b) Any person who violates the provisions of paragraph (a) or any person who knowingly permits a person who has been convicted of or who has pleaded guilty or no contest to a crime as described in paragraph (a) to engage in the bail bond business as prohibited in paragraph (a) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Any law enforcement agency, state attorney's office, court clerk, or insurer that is aware that a bail bond agent, temporary bail bond agent, or runner has been convicted of or who has pleaded guilty or no contest to a crime as described in paragraph (a) shall notify the department of this fact.

(d) Upon the filing of an information or indictment against a bail bond agent, temporary bail bond agent, or runner, the state attorney or clerk of the circuit court shall immediately furnish the department a certified copy of the information or indictment.

(9) (a) Any person who violates any provisions of paragraph (1)(d), paragraph (1)(e), paragraph (1)(f), paragraph (1)(i), or paragraph (1)(m) or subsection (2) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, s. 775.084.

(b) Any person who violates the provisions of paragraph (1)(a), paragraph (1)(b), paragraph (1)(g), paragraph (1)(j), or paragraph (1)(l), subsection (3), subsection (4), or subsection (5) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

648.441 Furnishing supplies to unlicensed bail bond agent prohibited; civil liability and penalty. —

(1) An insurer, managing general agent, bail bond agent, temporary bail bond agent, or runner appointed under this chapter may not furnish to any person any blank forms, applications, stationery, business card, or other supplies to be used in soliciting, negotiating, or effecting bail bonds until such person has received from the department a license to act as a bail bond agent and is appointed by the insurer. This section does not prohibit an unlicensed employee, under the direct supervision and control of a licensed and appointed bail bond agent, from possessing or executing in the bail bond agency, any forms, except for powers of attorney, bond forms, and collateral receipts, while acting within the scope of his or her employment.

(2) Any insurer, licensee, or appointee who furnishes to any bail bond agent or other person not named or appointed by the insurer represented any of the supplies mentioned in subsection (1) and accepts any bail bond business from or writes any bail bond business for such bail bond agent, person, or agency is subject to civil liability to any insured of such insurer or indemnitor to the same extent and in

the same manner as if such bail bond agent or other person had been appointed or authorized by the insurer, managing general agent, or bail bond agent to act in its or his or her behalf by the department.

(3) Any person who violates this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

648.442 Collateral security. —

(1) Collateral security or other indemnity accepted by a bail bond agent, except a promissory note or an indemnity agreement, shall be returned upon final termination of liability on the bond. Such collateral security or other indemnity required by the bail bond agent must be reasonable in relation to the amount of the bond. Collateral security may not be used by the bail bond agent for personal benefit or gain and must be returned in the same condition as received. A bail bond agent may accept collateral security in excess of \$50,000 cash per bond, provided any amount over \$50,000 cash is payable to the insurer in the form of a cashier's check, United States postal money order, certificates of deposit, or wire transfer and is remitted to and held by the insurer. Other acceptable forms of security or indemnity may consist of the following:

- (a) A promissory note;
- (b) An indemnity agreement;
- (c) A real property mortgage in the name of the insurer;
- (d) Any Uniform Commercial Code filing; or
- (e) Any other type of security approved by the department. The department may approve other security only if, after considering the liquidity and other characteristics of the security, it determines that the security is of a type which increases the probability that the defendant will in fact appear in court or increases the probability that the defendant will be subsequently apprehended by the bail bond agent.

(2) When a bail bond agent accepts collateral, a written, numbered receipt shall be given, and this receipt shall give in detail a full account of the collateral received. The bail bond agent shall also give copies of documents rendered under subsection (1) of this section to the indemnitor.

(3) Such collateral security shall be received and held in the insurer's name by the bail bond agent in a fiduciary capacity and, prior to any forfeiture of bail, shall be kept separate and apart from any other funds or assets of such bail bond agent. When collateral security in excess of \$5,000 cash or its equivalent is received by a bail bond agent, the entire amount shall be immediately forwarded to the insurer or managing general agent. Such collateral security may be placed in an interest-bearing account to accrue to the benefit of the person giving the collateral security, and the bail bond agent, insurer, or managing general agent may not make any pecuniary gain on the collateral security deposited. Any such account shall be in a depository office of a financial institution located in this state. The insurer shall be liable for all collateral received. If the bail bond agent or managing general agent fails to return the collat-

eral to the indemnitor upon final termination of liability on the bond, the surety shall be liable for the collateral and shall return the actual collateral to the indemnitor or, in the event that the surety cannot locate the collateral, the surety shall pay the indemnitor pursuant to the provisions of this section.

(4) When the obligation of the surety on the bond or bonds has been released in writing by the court, the collateral shall be returned to the rightful owner named in the collateral receipt unless another disposition is provided for by legal assignment of the right to receive the collateral to another person.

(5) If a forfeiture occurs, the agent or insurer shall give 10 days' written notice of intent to convert the collateral deposit into cash to satisfy the forfeiture to the indemnitor and principal. Notice shall be sent by certified mail to the last known address of the indemnitor and principal.

(6) The bail bond agent or insurer must convert the collateral to cash within a reasonable period of time and return that which is in excess of the face value of the bond minus the actual and reasonable expenses of converting the collateral to cash. In no event shall these expenses exceed 10 percent of the face value of the bond. However, upon motion and proof that the actual, reasonable expenses exceed 10 percent, the court may allow recovery of the full amount of such actual, reasonable expenses. If there is a remission of a forfeiture, which had required the surety to pay the bond to the court, the surety shall pay to the indemnitor the value of any collateral received for the bond, minus any actual expenses and costs permitted herein.

(7) No bail bond agent or insurer shall solicit or accept a waiver of any of the provisions of this section or enter into any agreement as to the value of the collateral.

(8) Any person who violates this section is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

648.4425 Notice. — Upon issuing a bond, the bail bond agent shall provide to the principal and, if applicable, to the party rendering collateral or indemnifying the principal an informational notice which shall include:

- (1) A statement noting with particularity the restrictions, if any, placed on the principal as a condition of the bond;
- (2) A statement of the bail bond agent's powers relating to the cancellation of the bond and recommitment of the principal; and
- (3) The name, address, and telephone number of the department for complaints or inquiries.

648.45 Actions against a licensee; suspension or revocation of eligibility to hold a license. —

(1) The department shall, upon receipt of an information or indictment, immediately temporarily suspend any license or appointment issued under this chapter when the licensee has been charged with a felony or a crime involving moral turpitude or a crime punishable by imprisonment of 1 year or more

under the law of any state, territory, or country. Such suspension shall continue if the licensee has been found guilty of, or has pleaded guilty or no contest to, the crime, whether or not a judgment or conviction has been entered, during a pending appeal. A person may not effect any additional bail bonds after suspension of his or her license or appointment. However, he or she may discharge any liability on bonds effected prior to such suspension.

(2) The department shall deny, suspend, revoke, or refuse to renew any license or appointment issued under this chapter or the insurance code, and it shall suspend or revoke the eligibility of any person to hold a license or appointment under this chapter or the insurance code, for any violation of the laws of this state relating to bail or any violation of the insurance code or for any of the following causes:

(a) Lack of one or more of the qualifications specified in this chapter for a license or appointment.

(b) Material misstatement, misrepresentation, or fraud in obtaining a license or appointment, or in attempting to obtain a license or appointment.

(c) Failure to pass any examination required under this chapter.

(d) Willful use, or intended use, of the license or appointment to circumvent any of the requirements or prohibitions of this chapter or the insurance code.

(e) Demonstrated lack of fitness or trustworthiness to engage in the bail bond business.

(f) Demonstrated lack of reasonably adequate knowledge and technical competence to engage in the transactions authorized by the license or appointment.

(g) Fraudulent or dishonest practices in the conduct of business under the license or appointment.

(h) Misappropriation, conversion, or unlawful withholding of moneys belonging to a surety, a principal, or others and received in the conduct of business under a license.

(i) Rebating or offering to rebate, or unlawfully dividing or offering to divide, any commission, in the case of a limited surety agent, or premiums, in the case of a professional bail bond agent.

(j) Willful failure to comply with or willful violation of any proper order or rule of the department or willful violation of any provision of this chapter or the insurance code.

(k) Having been found guilty of, or having pleaded guilty or no contest to a felony, a crime involving moral turpitude, or a crime punishable by imprisonment of 1 year or more under the law of any state, territory, or country, whether or not a judgment or conviction has been entered.

(l) Demonstrated lack of good faith in carrying out contractual obligations and agreements.

(m) Failure to perform a contractual obligation or agreement with a managing general agent or insurer which results in an unrecovered loss due to nonpayment of a forfeiture or judgment by the licensee.

(n) Failure to return collateral.

(3) The department may deny, suspend, re-

voke, or refuse to renew any license or appointment issued under this chapter or the insurance code, or it may suspend or revoke the eligibility of any person to hold a license or appointment under this chapter or the insurance code, for any violation of the laws of this state relating to bail or any violation of the insurance code or for any of the following causes:

(a) A cause for which issuance of the license or appointment could have been refused had it then existed and been known to the department.

(b) Cheating on an examination required for licensure or violating test center rules or examination procedures published orally or in writing at the test site by authorized representatives of the examination program administrator. Communication of test center rules and examination procedures must be clearly established and documented.

(c) Violation of any law relating to the business of bail bond insurance or violation of any provision of the insurance code.

(d) Failure or refusal, upon demand, to pay over to any insurer the bail bond agent represents or has represented any money coming into his or her hands which money belongs to the insurer.

(e) Found to be a source of injury or loss to the public or detrimental to the public interest or being found by the department to be no longer carrying on the bail bond business in good faith.

(f) Interfering or attempting to interfere with the administration of justice.

(4) Any licensee found to have violated s. 648.44(1)(b), (c), or (h) shall, at a minimum, be suspended for a period of 3 months. A greater penalty, including revocation, shall be imposed if there is a willful or repeated violation of s. 648.44(1)(b), (c), or (h), or the licensee has committed other violations of this chapter.

(5) Grounds for revocation of the license or appointment exist when any licensee is adjudged bankrupt or insolvent.

(6) Suspension, revocation, and refusal to renew a license or appointment issued under this chapter is subject to the procedures provided in s. 648.46.

648.46 Procedure for disciplinary action against licensees. —

(1) The department shall investigate the actions of a licensee when it receives a written complaint containing allegations of fact that, if true, show that a violation of this chapter, or a rule adopted pursuant thereto, has occurred. The department shall also investigate a licensee if the department is made aware that a possible violation of this chapter, or a rule adopted pursuant thereto, has occurred. If the department determines that a violation of this chapter or a violation of a rule adopted pursuant to this chapter has occurred, the department may file a formal complaint against the licensee and prosecute under chapter 120.

(2) Any proceeding for the purpose of summary suspension of a license pursuant to s. 120.60(8) shall be conducted by the department, which shall issue the final summary order.

(3) The complaint and all information obtained pursuant to the investigation of the department are confidential and exempt from the provisions of s. 119.07(1) until such investigation is completed or ceases to be active. For the purpose of this section, an investigation is considered "active" while the investigation is being conducted by the department with a reasonable, good faith belief that it may lead to the filing of administrative, civil, or criminal proceedings. An investigation does not cease to be active if the department is proceeding with reasonable dispatch and there is good faith belief that action may be initiated by the department or other administrative or law enforcement agency.

648.48 Witnesses and evidence. —

(1) With respect to the subject of any examination or investigation being conducted by the department, the agent or examiner appointed by the department may administer oaths, examine and cross-examine witnesses, and receive oral and documentary evidence and shall have the power to subpoena witnesses and compel their attendance and testimony and require by subpoena the production of documents or other evidence which is deemed relevant to the inquiry.

(2) If any person refuses to comply with any such subpoena or to testify as to any matter concerning which he or she may be lawfully interrogated, the Circuit Court for Leon County or of the county wherein such examination or investigation is being conducted, or of the county wherein such person resides, on the application of the department may issue an order requiring such person to comply with the subpoena and to testify; and any failure to obey such an order of the court may be punished by the court as a contempt thereof.

(3) Subpoenas shall be served and proof of such service made in the same manner as if issued by a circuit court. Witness fees and mileage, if claimed, shall be allowed the same as for testimony in a circuit court.

(4) Any person willfully testifying falsely under oath as to any matter material to any such examination, investigation, or hearing shall upon conviction thereof be guilty of perjury and shall be punished accordingly.

(5) If any person asks to be excused from attending or testifying or from producing any documents or other evidence in connection with any examination, hearing, or investigation being conducted by the department or its examiner on the ground that the testimony or evidence required of him or her may tend to incriminate him or her or subject him or her to a penalty or forfeiture and shall notwithstanding be directed to give such testimony or produce such evidence, he or she must, if so directed by the department and the Department of Legal Affairs, nonetheless comply with such direction, but he or she shall not thereafter be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he or she may have so testified or produced evidence; and no testi-

mony so given or evidence produced shall be received against him or her upon any criminal action, investigation, or proceeding. However, no person so testifying shall be exempt from prosecution or punishment for any perjury committed by him or her in such testimony, and the testimony or evidence so given or produced shall be admissible against him or her upon any criminal action, investigation, or proceeding concerning such perjury; nor shall he or she be exempt from the refusal, suspension, or revocation of any license, permission, or authority conferred, or to be conferred, pursuant to this chapter.

(6) Any such individual may execute, acknowledge, and file in the office of the department a statement expressly waiving such immunity or privilege in respect to any transaction, matter, or thing specified in such statement; and thereupon the testimony of such individual or such evidence in relation to such transaction, matter, or thing may be received or produced before any judge or justice, court, tribunal, grand jury, or otherwise; and, if so received or produced, such individual shall not be entitled to any immunity or privileges on account of any testimony he or she may so give or evidence so produced.

(7) Any person who refuses or fails, without lawful cause, to testify relative to the affairs of any person when subpoenaed and requested by the department to so testify commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

648.49 Duration of suspension or revocation. —

(1) The department shall, in its order suspending a license or appointment or the eligibility to hold a license or appointment, specify the period during which the suspension is to be in effect, but such period may not exceed 2 years. The license or appointment and eligibility to hold a license or appointment shall remain suspended during the period so specified, subject, however, to any rescission or modification of the order by the department, or modification or reversal thereof by the court, prior to expiration of the suspension period. A license or appointment which has been suspended may not be reinstated, nor shall the eligibility to hold such license or appointment be reinstated, except upon request for such reinstatement, but the department may not grant such reinstatement if it finds that the circumstances for which the license or appointment was suspended still exist or are likely to recur. In each case involving suspension, the department has the discretion to require the former licensee to successfully complete a basic certification course in the criminal justice system, consisting of not less than 80 hours approved by the department.

(2) Any individual who is licensed under any license which has been revoked or who has had his or her eligibility to hold a license revoked by the department may not apply for another license under this chapter.

(3) During the period of suspension, or after revocation of the license, the former licensee may

not engage in or attempt to profess to engage in any transaction or business for which a license or appointment is required under this chapter. Any person who violates this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) Upon the termination for cause, surrender, suspension pursuant to s. 648.45(2), or revocation of a bail bond agent's license, the appointing insurer or managing general agent shall immediately designate a licensed and appointed bail bond agent to administer all bail bonds previously written by the licensee.

648.50 Effect of suspension, revocation upon associated licenses and licensees. —

(1) Upon the suspension, revocation, or refusal to renew or continue any license or appointment or the eligibility to hold a license or appointment of a bail bond agent, temporary bail bond agent, or runner, the department shall at the same time likewise suspend or revoke all other licenses or appointments and the eligibility to hold any other such licenses or appointments which may be held by the licensee under the Florida Insurance Code.

(2) In case of the suspension or revocation of the license or appointment, or the eligibility to hold a license or appointment, of any bail bond agent, the license, appointment, or eligibility of any and all bail bond agents who are members of a bail bond agency, whether incorporated or unincorporated, and any and all temporary bail bond agents or runners employed by such bail bond agency, who knowingly are parties to the act which formed the ground for the suspension or revocation may likewise be suspended or revoked.

(3) No person whose license as a bail bond agent, temporary bail bond agent, or runner has been revoked or suspended shall be employed by any bail bond agent, have any ownership interest in any business involving bail bonds, or have any financial interest of any type in any bail bond business during the period of revocation or suspension.

648.51 Surrender of license. —

(1) Though issued to a licensee, all licenses issued under this chapter are at all times the property of the state, and upon notice of any suspension, revocation, refusal to renew, failure to renew, expiration, or other termination of the license, such license shall no longer be in force and effect.

(2) This section shall not be deemed to require the surrender to the department of any license unless such surrender has been requested by the department.

648.55 All bail bond agents of same agency; licensed by same companies. — All bail bond agents who are members of the same agency, partnership, corporation, or association shall be appointed to represent the same companies. If any member of such agency, partnership, corporation, or association is licensed and appointed as a professional bail bond agent, all members thereof shall

be so licensed and appointed. It is the responsibility of each insurer to require that each bail bond agent in an agency is appointed to represent that particular insurer.

648.571 Failure to return collateral; penalty. —

A bail bond agent who has taken collateral or an insurer or managing general agent who holds collateral as security for a bail bond shall, upon demand, make a written request for a discharge of the bond to be delivered to the surety or the agent of the surety. If a discharge is provided to the surety or the agent of the surety pursuant to chapter 903, the collateral shall be returned to the indemnitor within 21 days of said discharge being provided. Upon demand, following the written request for discharge and upon diligent inquiry by the surety or the agent of the surety to determine that the bond has been discharged, failure of the court to provide a written discharge to the surety or the agent of the surety pursuant to chapter 903 within 7 days, shall cause the cancellation of the bond by operation of law and collateral shall be returned to the indemnitor within 21 days of the written request for discharge. Fees or other charges of any nature other than as outlined in this chapter or by rule of the department may not be deducted from the collateral due. However, allowable expenses incurred in the apprehension of the defendant because of a forfeiture of bond or judgment under s. 903.29 may be deducted if such expenses are accounted for. Failure to return collateral under these terms shall be punishable:

(1) In the event the collateral is of a value of less than \$100, as provided in s. 775.082(4)(a).

(2) In the event the collateral is of a value of \$100 or more, as provided in s. 775.082(3)(d).

(3) In the event the collateral is of a value of \$1,500 or more, as provided in s. 775.082(3)(c).

(4) In the event the collateral is of a value of \$10,000 or more, as provided in s. 775.082(3)(b).

Section 43. For the purposes of carrying out this act, there is hereby appropriated four positions and \$247,766 from the Insurance Commissioner's Regulatory Trust Fund for fiscal year 1996-1997.

Section 44. This act shall take effect July 1, 1996.

Florida's finest Surety Agents.

