

HOUSE BILL No. 5536

October 22, 2009, Introduced by Rep. Johnson and referred to the Committee on Regulatory Reform.

A bill to regulate the occupations of bail bond agents, fugitive recovery persons, and bail bond runners; to prescribe certain powers and duties of certain state officers and agencies; and to provide for penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "bail bond personnel licensure act".

3 Sec. 2. As used in this act:

4 (a) "Bail bond agent" means a surety bail agent or a
5 property bail agent or his or her agent.

6 (b) "Bail bond runner" means any person compensated by a
7 bail bond agent for the purpose of delivering bail bonds to
8 courts and jails on behalf of the bail bond agent.

9 (c) "Fugitive recovery person" means a person who has

1 contracted with or is employed by contract or on a salary basis
2 by a bail bond agent or surety as a special agent to enforce the
3 terms and conditions of a defendant's release from custody on
4 bail in a criminal proceeding, to locate a defendant or
5 indemnitors, to transport a defendant, and to apprehend a
6 defendant or surrender a defendant to custody, or both, if
7 appropriate.

8 (d) "Office" means the office of financial and insurance
9 regulation in the department of consumer and industry services.

10 (e) "Property bail agent" means a person engaged in the
11 business of becoming surety upon bonds for compensation in
12 criminal cases, and his or her bail bond agents, who executes or
13 countersigns undertakings of bail in connection with judicial
14 proceedings and who receives or is promised money or other things
15 of value therefor, and whose bonds are guaranteed by his or her
16 personal assets.

17 (f) "Surety" means an individual, insurer, or entity that,
18 with the principal, is liable to the state for the amount of a
19 bail bond upon forfeiture of bail.

20 (g) "Surety bail agent" means any individual appointed by an
21 authorized surety insurer by power of attorney to execute or
22 countersign bail bonds for the insurer in connection with
23 criminal judicial proceedings who receives or is promised money
24 or other things of value therefor.

25 Sec. 3. (1) Beginning January 1, 2010, a surety bail agent
26 shall not engage in the business of bail bond agent unless he or
27 she is licensed by the office under this act and is registered by

1 the state court administrator as provided in section 8.

2 (2) Beginning January 1, 2010, a property bail agent shall
3 not engage in the business of bail bond agent unless he or she
4 obtains a circuit court order authorizing him or her to engage in
5 the business of property bail agent in each county in which he or
6 she engages in that business. A court order described in this
7 subsection is valid only for 1 calendar year and expires at the
8 end of that calendar year. The court order may be issued at any
9 time during the year, and may be issued as many times during the
10 year as is necessary. The property bail agent shall deliver to
11 the state court administrative office certified copies of all
12 court orders allowing him or her to engage in the business of
13 property bail agent. Beginning January 1, 2011, a property bail
14 agent also is required to be licensed by the office under this
15 act and be registered by the state court administrator as
16 provided in section 8.

17 (3) A person shall not use or advertise any title or
18 description tending to convey the impression that he or she is a
19 bail bond agent unless he or she is licensed by the office under
20 this section and is registered by the state court administrative
21 office as provided in section 8.

22 (4) A person who violates subsection (1), (2), or (3) is
23 guilty of a misdemeanor punishable as follows:

24 (a) For a first violation, by imprisonment for not more than
25 91 days or a fine of not more than \$500.00, or both.

26 (b) For a second or subsequent violation, by imprisonment
27 for not more than 2 years or a fine of not more than \$4,000.00. A

1 person committing a second or subsequent violation also shall be
2 permanently disqualified from holding a bail bond agent's
3 license. Upon entering a conviction under this subdivision, the
4 court shall send a copy of the record of conviction to the
5 office.

6 Sec. 4. (1) Except as provided in subsection (2), an
7 applicant for licensure as a bail bond agent shall be of good
8 moral character and shall pass a written examination developed by
9 the office.

10 (2) An applicant who, immediately before the effective date
11 of this act, was engaged in the business of surety bail agent or
12 property bail agent and was named on the typewritten or printed
13 list described in section 167b(4) of the Michigan penal code,
14 1931 PA 328, MCL 750.167b, is not required to pass the written
15 examination.

16 Sec. 5. Licensure under this act shall be on an individual
17 basis. The office shall not issue a bail bond agent license to a
18 partnership, association, corporation, limited liability
19 corporation, or public agency under this act.

20 Sec. 6. (1) Each bail bond agent shall have a seal, approved
21 and provided by the office, which shall contain the name of the
22 bail bond agent, the serial number of his or her certificate of
23 registration, and the legend "bail bond agent, state of Michigan"
24 and other words or figures as the department considers necessary.
25 Bail bonds and related documents issued by the bail bond agent
26 shall be stamped with his or her seal when filed with a court or
27 law enforcement agency. A bail bond agent shall not give or loan

1 the seal to any other person or authorize the use of the seal by
 2 any other person. A seal issued to a bail bond agent remains the
 3 property of this state. If a bail bond agent's license is revoked
 4 or suspended by the office, or if his or her registration under
 5 section 8 is canceled by the state court administrator, the bail
 6 bond agent shall return his or her seal to the office not later
 7 than 7 days after the revocation, suspension, or cancellation. A
 8 bail bond agent who violates this section is guilty of a
 9 misdemeanor punishable by imprisonment for not more than 90 days
 10 or a fine of not more than \$500.00, or both.

11 (2) The office shall issue to each licensed bail bond agent
 12 an identification card containing a photograph or digitized image
 13 of the person, the person's name, and any other identifying
 14 information considered appropriate by the office. The licensed
 15 bail bond agent shall carry the identification card on his or her
 16 person at all times when performing his or her duties as a bail
 17 bond agent and shall present the identification card to a law
 18 enforcement officer or court officer upon the request of the law
 19 enforcement officer or court officer.

20 Sec. 7. (1) Fees for a person seeking licensure as a bail
 21 bond agent under this act are as follows:

22	(a) Application processing fee.....	\$ 35.00
23	(b) Supplemental application processing fee.....	20.00
24	(c) Examination fee.....	150.00
25	(d) Examination review.....	25.00

26 (2) Fees required under subsection (1) shall be paid to the

1 department of consumer and industry services and shall be
2 retained by the department of consumer and industry services to
3 defray the expenses of the office in administering this act.

4 Sec. 8. (1) A bail bond agent licensed by the office under
5 this act also shall register with the state court administrative
6 office.

7 (2) The state court administrative office shall compile a
8 written registry of all bail bond agents who register under
9 subsection (1). The state court administrative office shall
10 update the registry monthly. For each bail bond agent on the
11 registry, the registry shall contain the following information:

12 (a) The bail bond agent's name.

13 (b) The name of the bail bond agent's business and the
14 business telephone numbers.

15 (c) The surety by whom the bail bond agent was appointed.

16 (d) A power of attorney from the surety specifying the bail
17 bond agent and the limit of the bail bond agent's authority,
18 including a maximum dollar amount, and stating that the bail bond
19 agent is authorized for the entire state or, if geographically
20 limited, the specific counties for which the bail bond agent is
21 authorized.

22 (e) In the case of a property bail agent, the names of the
23 counties in which he or she is authorized by court order to
24 operate as a property bond agent.

25 (3) The state court administrative office shall prepare a
26 list containing the information compiled for the registry and
27 shall make the list available by means of its website to each

1 police precinct and place of confinement described in section
2 167b of the Michigan penal code, 1931 PA 328, MCL 750.167b. The
3 list shall show bail bond agents alphabetically by their last
4 names. The list also shall be posted on the state court
5 administrative office's website and shall be distributed in
6 electronic form so that it may be posted on the internet website
7 of each county.

8 (4) Removal of surety bail agents from the list described in
9 subsection (3) shall be done only by the state court
10 administrative office after receiving a request from the office
11 to remove a bail bond agent. Removal of property bail agents from
12 the list shall be done only by the state court administrative
13 office after receiving a court order from 1 of the counties used
14 to be placed on the list. The property bail agent shall be
15 entitled to due process and appeal to the court of jurisdiction.
16 The property bail agent shall be removed from the list with the
17 filing of a certified copy of the court order and may only be
18 placed back on the list if successfully appealed. Removal by 1
19 county shall be cause for removal from the entire list.

20 (5) Each bail bond agent shall pay an annual registration
21 fee of \$40.00 to the state court administrative office. The fees
22 shall be retained by the state court administrative office to
23 defray the expenses of its duties in administering this act.

24 Sec. 9. (1) Beginning January 1, 2009, a person shall not
25 perform the duties of a fugitive recovery person within this
26 state unless he or she meets all of the following requirements:

27 (a) He or she is licensed by the office as a fugitive

1 recovery person. As a condition of licensure, the person must
2 successfully complete a 2-part examination administered by the
3 office. The first part of the examination shall test the
4 applicant's knowledge of Michigan law pertaining to general
5 insurance laws and regulations, to the same extent as is required
6 of applicants for licensure as surety bail agents. The second
7 part of the examination shall test the applicant's knowledge in
8 the areas of pretrial release and bail bonds; Michigan appellate
9 decisions regarding bail bond cases; state court administrative
10 office instructions regarding bail bonds; the Michigan court
11 system; and the Michigan surety bond forfeiture process,
12 judgments, and surety's right to arrest.

13 (b) He or she holds a concealed pistol license issued under
14 section 5b of 1927 PA 372 MCL 28.425b.

15 (c) He or she has never been convicted of a felony.

16 (d) He or she is of good moral character, as determined by
17 the office.

18 (2) Before being issued a license as a fugitive recovery
19 person, the applicant must have completed both of the following:

20 (a) Not less than 40 hours of training in all of the
21 following areas:

22 (i) State statutes relating to bail regulations.

23 (ii) Court rules relating to bail.

24 (iii) State court administrative office instructions regarding
25 bail bonds.

26 (iv) Michigan appellate decisions regarding bail bond cases.

27 (v) Michigan constitutional law.

1 (vi) The Michigan court system.

2 (vii) Michigan surety bail bond forfeiture process, including
3 judgments.

4 (viii) A surety's right to arrest.

5 (ix) The powers of a bail bond fugitive recovery agent.

6 (x) Badge and uniform laws.

7 (xi) Procedures for surrendering defendants into custody.

8 (xii) U.S. Code title 18 interstate agreement on detainers
9 act.

10 (xiii) Uniform criminal extradition and rendition acts.

11 (xiv) Procedures for exoneration.

12 (xv) Civil liability.

13 (xvi) Civil rights of persons who are detained in custody.

14 (xvii) Basic principles of identifying and locating defendants
15 to include public records and confidentiality and surveillance.

16 (xviii) Contracts.

17 (b) Not less than 40 hours of training in field operations,
18 obtained through public or private instruction. The applicant
19 must obtain and present to the office certificates showing that
20 he or she successfully completed that training. The certificates
21 must show the name of the trainer, the training facility, a
22 description of the training received, the date the training was
23 received, an expiration date that is no longer than 2 years after
24 the date of the initial training, and the name of the person
25 receiving the training. Once licensed, a fugitive recovery person
26 shall carry copies of the certificates while acting in the
27 capacity of a fugitive recovery person and must present them to

1 law enforcement officers upon request. The subject areas of field
2 operations training are as follows:

3 (i) Training in use of force and degrees of force, including
4 verbal, electro-muscular disruption devices such as the Taser
5 X/M26, and oleo capsicum resin sprays or foams rated at 100,000
6 to 2,000,000 Scoville heat units.

7 (ii) Safety techniques regarding the use of electro-muscular
8 disruption devices and oleo capsicum resin sprays or foams rated
9 at 100,000 to 2,000,000 Scoville heat units.

10 (iii) Entering and searching buildings.

11 (iv) The custody and transportation of prisoners including
12 persons who are violent, emotionally disturbed, or under the
13 influence of alcohol or drugs; and sudden in-custody death
14 syndrome or excited delirium.

15 (v) Defensive tactics.

16 (vi) Application of restraints and tactical handcuffing
17 procedures.

18 (vii) Gun safety training from an approved trainer or, if an
19 applicant intends to carry a firearm as a fugitive recovery
20 person, a current firearm certification from a certified law
21 enforcement trainer in weapon retention and tactical handgun
22 skills; and training in deciding whether to use a firearm in a
23 given situation.

24 (3) In addition to the prelicense training required under
25 subsection (2), an individual who is issued a license as a
26 fugitive recovery person shall obtain certification in the use of
27 the following defensive tools within 12 months of applying for a

1 license or endorsement: Taser X/M26 and oleo capsicum resin
2 sprays or foams rated at 100,000 to 2,000,000 Scoville heat
3 units.

4 (4) Notwithstanding subsection (2), an applicant for a
5 license as a fugitive recovery person who submits proof to the
6 office that, within the past 6 years, he or she has completed a
7 course of training required by a municipal, state, or federal law
8 enforcement agency or a branch of the armed forces for carrying
9 out the duties of a peace officer is exempt from the prelicense
10 training requirements of subsection (2).

11 (5) A bail bond agent or surety shall not employ or
12 otherwise retain as a fugitive recovery person an individual who
13 has been convicted of a felony. A violation of this subsection is
14 grounds for disciplinary action by the office, including
15 suspension or revocation of the bail bond agent's license.

16 (6) A person who violates subsection (1) or (5) is guilty of
17 a misdemeanor punishable as follows:

18 (a) For a first violation, by imprisonment for not more than
19 91 days or a fine of not more than \$500.00, or both.

20 (b) For a second or subsequent violation, by imprisonment
21 for not more than 2 years or a fine of not more than \$4,000.00. A
22 person committing a second or subsequent violation also shall be
23 permanently disqualified from holding a bail bond agent's
24 license. Upon entering a conviction under this subdivision, the
25 court shall send a copy of the record of conviction to the
26 office.

27 (7) The office shall issue to each licensed fugitive

recovery person an identification card containing a photograph or digitized image of the person, the person's name, and any other identifying information considered appropriate by the office. The licensed fugitive recovery person shall carry the identification card on his or her person at all times when performing his or her duties as a fugitive recovery person and shall present the identification card to a law enforcement officer or court officer upon the request of the law enforcement officer or court officer.

(8) Fees for a person seeking licensure as a fugitive recovery person are as follows:

(a) Application processing fee.....	\$ 35.00
(b) Supplemental application processing fee.....	20.00
(c) Examination fee.....	150.00
(d) Examination review.....	25.00

(9) Fees required under subsection (8) shall be paid to the department of consumer and industry services and shall be retained by the department of consumer and industry services to defray the expenses of the office in administering this act.

Sec. 10. (1) A licensed bail bond agent may appoint a person to be a bail bond runner, subject to this section and sections 11 to 13. An appointment of a bail bond runner is not effective until that person is awarded a license by the office under section 12. A bail bond agent who appoints a bail bond runner shall be known as the sponsoring bail bond agent. The sponsoring bail bond agent shall supervise the work of the bail bond runner and be responsible for his or her conduct in the bail bond

1 business.

2 (2) A bail bond runner shall be appointed by only 1
3 sponsoring bail bond agent and shall perform bail bond runner
4 services only for the sponsoring bail bond agent and any bail
5 bond agent employed by the sponsoring bail bond agent at the same
6 bail bond agency.

7 (3) The office shall issue to each licensed bail bond runner
8 an identification card containing a photograph or digitized image
9 of the person, the person's name, and any other identifying
10 information considered appropriate by the office. The licensed
11 bail bond runner shall carry the identification card on his or
12 her person at all times when performing his or her duties as a
13 bail bond runner and shall present the identification card to a
14 law enforcement officer or court officer upon the request of the
15 law enforcement officer or court officer.

16 (4) A bail bond agent who terminates the appointment of a
17 bail bond runner shall file written notice of the termination
18 with the office. The notice shall state that the bail bond agent
19 has given or mailed notice of the termination to the bail bond
20 runner. The notice shall state the reasons, if any, for the
21 termination. Information contained in the statement is privileged
22 and may not be used as evidence in any civil action brought
23 against the bail bond agent.

24 (5) A bail bond runner licensed by the office under this
25 section shall automatically be registered with the state court
26 administrative office upon payment of the annual registration
27 fee. The state court administrative office shall compile a

1 written registry of all bail bond runners who register. The state
2 court administrative office shall update the registry monthly.
3 For each bail bond runner on the registry, the registry shall
4 contain the following information:

5 (a) The bail bond runner's name.

6 (b) The name of the sponsoring bail bond agent's business
7 and the business telephone numbers.

8 (6) The state court administrative office shall prepare a
9 list containing the information compiled for the registry and
10 shall make the list available by means of its website to each
11 police precinct and place of confinement described in section
12 167b of the Michigan penal code, 1931 PA 328, MCL 750.167b. The
13 list shall show bail bond runners alphabetically by their last
14 names. The list also shall be posted on the state court
15 administrative office's website, shall be distributed in
16 electronic form, and shall be posted on the internet website of
17 each county.

18 (7) Removal of bail bond runners from the list described in
19 subsection (6) shall be done only by the state court
20 administrative office after receiving a request from the office
21 to remove a bail bond runner.

22 Sec. 11. A bail bond runner shall not be an individual
23 licensed as a bail bond agent and shall only deliver bail bonds
24 to courts and jails or other places of confinement. A bail bond
25 runner shall not do any of the following:

26 (a) Engage in the business of bail bond agent.

27 (b) Perform the duties of fugitive recovery person unless he

1 or she is licensed as a fugitive recovery person.

2 (c) Countersign bail bond powers of attorney.

3 (d) Have in his or her possession any power of attorney or
4 similar document unless it contains the bail bond agent's seal
5 and has been fully completed by the bail agent, including the
6 name of the defendant for whom the bond is to be posted, the bond
7 amount, and the court to which the bond is given.

8 (e) Collect money.

9 (f) Take applications for bail bonds.

10 (g) Execute bail bonds.

11 (h) Solicit bail bond business in any manner.

12 Sec. 12. (1) Beginning January 1, 2010, a person shall not
13 perform the duties of a bail bond runner unless he or she is
14 appointed by a licensed bail bond agent under section 10 and is
15 licensed by the office as a bail bond runner under this section.

16 (2) An applicant for a license under this section must meet
17 all of the following qualifications:

18 (a) Be 18 years of age or over.

19 (b) Be a resident of this state.

20 (c) Have earned at least a high school diploma or a general
21 educational development (GED) certificate.

22 (d) Have knowledge, training, or experience of sufficient
23 duration and extent to competently fulfill the responsibilities
24 of a bail bond runner.

25 (e) Have no current or prior violations of state insurance
26 laws or regulations or state bail bond laws or regulations.

27 (f) Not have been disqualified in any manner from conducting

1 the activities of a bail bond runner under the laws of this state
2 or any other state.

3 (3) An applicant for licensure as a bail bond runner shall
4 apply in writing for licensure, on forms prepared and supplied by
5 the office. The office may require the applicant to provide any
6 information reasonably related to the applicant's qualifications,
7 residence, prospective place of business, and any other matters
8 which, as determined by the office, are necessary or expedient in
9 order to protect the public and ascertain the qualifications of
10 the applicant.

11 (4) An application for licensure as a bail bond runner shall
12 be accompanied by all of the following:

13 (a) A written appointment of the applicant as a bail bond
14 runner by a sponsoring bail bond agent.

15 (b) A written affidavit of the applicant, signed by the
16 applicant, stating both of the following:

17 (i) That the applicant will be appointed as a bail bond
18 runner only by the sponsoring bail bond agent and will perform
19 the duties of a bail bond runner only for the sponsoring bail
20 bond agent and any bail bond agents employed by the sponsoring
21 bail bond agent at the same bail bond agency, as required by
22 section 10(2).

23 (ii) That the applicant has been trained in and knows the
24 proper procedures for posting bail bonds in courts and jails and
25 will only perform the duties of bail bond runner as provided by
26 state law and any applicable rules or regulations of the office.

27 (c) A written affidavit of the sponsoring bail bond agent,

1 signed by the sponsoring bail bond agent, stating all of the
2 following:

3 (i) That the applicant has been trained in the proper
4 procedures regarding posting bail bonds at courts and jails and
5 state laws governing the conduct of a bail bond runner.

6 (ii) That the sponsoring bail bond agent will be responsible
7 for the applicant's conduct as a bail bond runner.

8 (iii) That the sponsoring bail bond agent will terminate the
9 applicant's appointment as a bail bond runner if the applicant,
10 after being licensed, violates any state law or rule or
11 regulation of the office governing the conduct of bail bond
12 runners.

13 (iv) That the applicant will perform his or her duties only
14 for the sponsoring bail bond agent and any bail bond agents
15 employed by the sponsoring bail bond agent at the same bail bond
16 agency, as required by section 10(2).

17 (v) That the applicant, at all times when acting as a bail
18 bond runner, will carry a signed authorization to act as a bail
19 bond runner from each bail bond agent employed by the sponsoring
20 bail bond agent's bail agency, countersigned by the sponsoring
21 agent.

22 (5) In connection with an application for a license or
23 renewal of a license under this section, the office shall require
24 that the applicant meet either of the following requirements, as
25 applicable:

26 (a) Have a current, valid license to carry a concealed
27 pistol permit issued under 1927 PA 372, MCL 28.421 to 28.435.

(b) If subdivision (a) does not apply to the applicant, be fingerprinted to determine whether he or she has a record of criminal convictions in this state or in other states. The commissioner shall submit the fingerprints and the appropriate state and federal fees, which shall be borne by the applicant, to the department of state police for a criminal history check. The department of state police may then forward the fingerprints to the federal bureau of investigation for a criminal history check. The information obtained as a result of the fingerprinting of an individual under this section shall be used solely for purposes of granting or denying a license under this section.

(6) In addition to the other requirements of this section, an applicant for a license to be a bail bond runner must affirmatively disclose, in writing, whether or not he or she has ever been licensed in another state to perform the duties of a bail bond runner and, if so, whether that license was ever suspended or revoked. An applicant who previously was licensed in another state as a bail bond runner must list all prior contacts, employment, or contractual services as a bail bond runner, indicating the name of each bail bond agent for whom he or she performed services as a bail bond runner and the reasons for the termination of the contact, employment, or contractual services.

(7) Fees for a person seeking licensure as a bail bond runner are as follows:

(a) Application processing fee.....	\$ 35.00
(b) Supplemental application processing fee.....	20.00

1	(c) Examination fee.....	150.00
2	(d) Examination review.....	25.00

3 (8) Fees required under subsection (7) shall be paid to the
4 department of consumer and industry services and shall be
5 retained by the department of consumer and industry services to
6 defray the expenses of the office in administering this act.

7 Sec. 13. (1) A person shall not act in the capacity of a
8 bail bond runner or perform any of the functions, duties, or
9 powers prescribed for bail bond runners unless that person is
10 qualified and licensed as provided in sections 10 to 12.

11 (2) A person who violates subsection (1) is guilty of a
12 misdemeanor punishable as follows:

13 (a) For a first violation, by imprisonment for not more than
14 91 days or a fine of not more than \$500.00, or both.

15 (b) For a second or subsequent violation, by imprisonment
16 for not more than 2 years or a fine of not more than \$4,000.00. A
17 person committing a second or subsequent violation also shall be
18 permanently disqualified from holding a bail bond runner's
19 license or a bail bond agent's license. Upon entering a
20 conviction under this subdivision, the court shall send a copy of
21 the record of conviction to the office.