

CHAPTER 202

AN ACT concerning the issuance of bail bonds by surety companies.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.17:31-10 Definitions relative to issuance of bail bonds by surety companies.

1. As used in this act:

"Bail agent or agency" means any person or entity that solicits, negotiates or sells bail bonds, or is affiliated in any manner with the execution of bail and is licensed as a limited lines insurance producer pursuant to P.L.2001, c.210 (C.17:22A-26 et seq.), an insurance producer or a limited insurance representative.

"Commissioner" means the Commissioner of Banking and Insurance.

"Surety company" means an insurer authorized to transact surety business in this State.

C.17:31-11 Temporary suspension, fines, restoration.

2. a. Upon receipt of a certification from the Clerk of the Superior Court stating that a bail agent or agency has failed to provide full, accurate and truthful information to the Clerk of the Superior Court as required by section 4 of this act, or has failed to satisfy a judgment or judgments for forfeited bail, the commissioner shall notify the bail agent or agency that its authority to negotiate, solicit or sell bail bonds, or be affiliated in any manner with the execution of bail bonds in this State shall be temporarily suspended. Upon receipt of a certification from the Clerk of the Superior Court that a surety company has failed to register or provide full, accurate and truthful information to the Clerk of the Superior Court, as required by section 4 of this act or has failed to satisfy a judgment for forfeited bail, the commissioner may temporarily suspend the surety company's authority to negotiate, solicit or sell bail bonds, or be affiliated in any manner with the execution of bail bonds in this State. The temporary suspensions imposed in accordance with this section shall remain in effect until the Clerk of the Superior Court notifies the commissioner that the surety company or bail agent or agency has properly registered and has provided information in accordance with section 4 of this act or has satisfied the judgment or judgments for forfeited bail.

b. In addition to any temporary suspension imposed pursuant to subsection a. of this section, the commissioner, after notice and an opportunity for a hearing, shall impose a fine against the surety company, bail agent or agency in an amount of up to \$10,000 for a first violation, up to \$25,000 for a second violation and up to \$100,000 for a third or subsequent violation for failure to register or provide full, accurate and truthful information to the Clerk of the Superior Court, as required by section 4 of this act or for failure to satisfy a judgment or judgments for forfeited bail.

c. The commissioner shall not restore the surety company's authority to negotiate, solicit or sell bail bonds, or be affiliated in any manner with the execution of bail bonds in this State, until the surety company has demonstrated that it has satisfied all judgments or court orders related to forfeited bail and has paid all fines imposed pursuant to this act.

d. Nothing in this act shall be construed to limit, preclude or otherwise adversely affect the commissioner's ability to pursue enforcement actions against the surety company, bail agent or agency resulting from violations of the insurance laws arising from the breach of the duties owed to the courts as provided in subsection a. of this section.

C.17:31-12 Deposit of amount of order or judgment on appeal.

3. Whenever a surety company, or bail agent or agency acting on its behalf, files an appeal in the Superior Court of New Jersey, Appellate Division, or the Supreme Court of New Jersey, from a judgment or order entered against it by a court to enforce the forfeiture of a bail bond pursuant to the Rules Governing the Courts of the State of New Jersey, the surety company shall deposit the full amount of the order or judgment in cash or by certified, cashiers or bank check with the Clerk of the Superior Court or Supreme Court, as appropriate. The court may allow the posting of a supersedeas bond, in a form approved by the court, upon the showing of good cause; provided, however, that good cause shall not mean an application by a surety to extend the time to forfeit a bond, to stay payment of a forfeiture of default judgment, or to extend the time to locate a defendant.

C.17:31-13 Registration by surety company of bail agent, agency.

4. a. A surety company shall register with the Clerk of the Superior Court the name and address of each bail agent or agency authorized by the surety company to write bail. The surety company shall provide written notice to the Clerk of the Superior Court when any bail agent or agency authorized to write bail is terminated or is no longer authorized by the surety company to write bail.

b. With respect to each bail agent or agency set forth in subsection a. of this section, the surety company shall disclose the name and address of any bail agent or agency that has provided a guarantee to the surety company for the satisfaction of any forfeited bail or bail forfeiture judgments entered against that surety company written by such bail agent or agency. The registration and disclosure shall include a certification by each listed bail agent or agency stating that the information provided is true and accurate.

c. Any surety company, or bail agent or agency, failing to register with the Clerk of the Superior Court, or failing to provide full, accurate and truthful information to the Clerk of the Superior Court, in accordance with the provisions of subsections a. and b. of this section shall be subject to the penalties set forth in section 2 of this act.

d. In addition to the information required in subsections a. and b. of this section, surety companies and bail agents or agencies shall provide any other information that the Rules Governing the Courts of the State of New Jersey may require.

C.17:31-14 Construction of act relative to authority of the courts.

5. Nothing in this act shall be construed to limit, prohibit or otherwise adversely affect the authority of the Supreme Court of New Jersey to adopt rules or issue directives or procedures to preclude a surety company, or its bail agents or agencies, from negotiating, soliciting or selling bail bonds on behalf of any defendant charged with a criminal or quasi-criminal offense pending in the Superior Court or in a municipal court of this State.

C.17:31-15 Rules, regulations.

6. The commissioner may promulgate rules and regulations in accordance with the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to effectuate the purposes of this act.

7. This act shall take effect immediately

Approved January 2, 2004.