

**REPORT OF THE
VIRGINIA STATE CRIME COMMISSION**

Study of Bail Bondsmen and Bounty Hunters

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



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**COMMONWEALTH OF VIRGINIA
RICHMOND
2003**



COMMONWEALTH of VIRGINIA

VIRGINIA STATE CRIME COMMISSION

Senator Kenneth W. Stolle
Chairman

Delegate David B. Albo
Chairman Elect

January 8, 2003

TO: The Honorable Mark Warner, Governor of Virginia

And

Members of the Virginia General Assembly

The 2002 General Assembly, through House Joint Resolution 201, requested the Virginia State Crime Commission study bail bondsmen and bounty hunters in the Commonwealth.

Enclosed for your review and consideration is the first year interim report which has been prepared in response to this request. The Commission received assistance from all affected agencies and gratefully acknowledges their input into this report.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'K. Stolle', written over a horizontal line.

Kenneth W. Stolle
Chairman

CRIME COMMISSION

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I. Authority

The *Code of Virginia*, §30-156, authorizes the Virginia State Crime Commission to study, report and make recommendations on all areas of public safety and protection in the Commonwealth. Additionally, the Commission is to study matters “including apprehension, trial and punishment of criminal offenders.” Section 30-158(3) provides the Commission the power to “conduct studies and gather information and data in order to accomplish its purposes as set forth in §30-156. . .and formulate its recommendations to the Governor and the General Assembly.”

The 2002 General Assembly enacted House Joint Resolution 201 (HJR 201) directing the Virginia State Crime Commission to study issues over a two year period related to bail bondsmen, bounty hunters, and methods of bond payment to the courts.¹ Specifically, the study shall determine: (i) the need for regulation, training and oversight of bail bondsmen; (ii) the need for regulation, training and oversight of bounty hunters; (iii) the feasibility and methods of providing for a percentage of bond payment to the court; and, (iv) whether the certification and supervision of bail bondsmen and bounty hunters should be transferred from the judicial branch to the executive branch of government. This report is an interim report on bail bondsmen. Final recommendations concerning bail bondsmen, bounty hunters and methods of bond payment will be made in fall 2003.

II. Executive Summary

In Spring 2002, the Virginia State Crime Commission began a two-year study that focused on issues regarding both surety and property bail bondsmen. Crime Commission staff conducted interviews with judges, clerks of court, magistrates and bail bondsmen from various areas of the Commonwealth, as well as representatives from the American Bail Coalition and the Arkansas Professional Bail Bond Company and Licensing Board. Additionally, staff of the Crime Commission met with and worked in conjunction with the State Corporation Commission and the Virginia Supreme Court. The Crime Commission staff reviewed other state statutes and collected and analyzed data from court recognizance forms and statutorily required evidence of collateral from each court of the Commonwealth. In addition, Virginia criminal background checks were conducted for property and casualty insurance agents who may engage in the bail bond industry.

First Year Study Recommendations

First year recommendations begin the process of identifying and regulating bail bondsmen in Virginia. In addition, these recommendations ensure a process whereby current data and information on collateral and bonding privileges are maintained by the courts.

Recommendation 1

Codify the definitions of those who engage in the bail bond industry as insurance agents

¹ House Joint Resolution 201 (2002). See attachment 1.

(surety bail bondsmen) and those who engage in the bail bond industry with real property or other personal property (property bail bondsmen).

Surety Bail Bondsmen – an individual licensed pursuant to Article 6.2 (§38.2-1856 et seq.) of this chapter who sells, solicits, or negotiates insurance as defined in §38.2-121 on behalf of insurers licensed in this Commonwealth, pursuant to which the insurer becomes surety on or guarantees a bond, as defined in §19.2-119, that has been posted to assure performance of terms and conditions specified by order of an appropriate judicial officer as a condition of bail.

Property Bail Bondsmen – an individual, or the agent of an individual, who pledges real property, cash or certificates of deposit issued by a federally insured institution, or any combination thereof as security for a bond, as defined in §19.2-119, that has been posted to assure performance of terms and conditions specified by order of an appropriate judicial officer as a condition of bail.

Recommendation 2

Add a new section for surety bail bondsmen in Title 38.2 of the *Code of Virginia*, to distinguish those insurance agents who engage in bail bonding from other insurance agents.

Recommendation 3

Amend the *Code* to require the State Corporation Commission to establish a separate database for surety bail bondsmen.

Recommendation 4

Amend the *Code* to prohibit the State Corporation Commission from licensing surety bail bondsmen who have been convicted of a felony offense, unless the agent's rights have been restored by the Governor.

Recommendation 5

Amend the *Code* to require as of July 1, 2003, all current insurance agents who engage in the bail bond industry go through a re-licensure process whereby a national criminal background check will be conducted.

Recommendation 5A

Require that persons applying for new licenses, re-licensure and/or renewal shall, as part of the licensure process:

1. shall submit fingerprints and personal descriptive information to the CCRE to be forwarded to the FBI for the purposes of obtaining a national criminal background check;
2. the cost of such check shall be paid by the applying agent; and,
3. the State Police shall submit an eligibility report to the SCC prior to licensure.

Recommendation 6

Amend the *Code* to require the State Corporation Commission renew surety bail bondsmen licenses every two years; renewal requirements should at a minimum consist

of a national history background check.

Recommendation 7

Amend §38.2-1831 to mandate that the State Corporation Commission shall revoke any surety bail bondsmen's license for any one of the 16 listed prohibitions, except for 11, 15, and 16, whereby the State Corporation Commission may retain the discretionary standard.

Recommendation 8

Amend §38.2-1832 to give the State Corporation Commission discretion in suspending licenses pending and/or during investigation of surety bail bondsmen.

Recommendation 9

Amend the *Code* to require the State Corporation Commission to collect, as part of licensure and renewal of surety bail bondsmen, copies of the powers-of-attorney required under §38.2-2416.

Recommendation 10

Amend the *Code* to require the State Corporation Commission to provide notice to the clerks of court of "suspended" companies with those of companies whose ability to insure has been revoked under §38.2-2412.

Recommendation 11

Amend the *Code* to require that all powers vested to property bail bondsmen under §19.2-152.1 be revoked as of October 1, 2003, unless a certified tax assessment or appraisal of the property (within 1 year) and an affidavit verifying sufficient equity in such property is on file in the Circuit Court where bonding privileges were granted. This shall be done yearly each July 1.

Recommendation 12

Amend §19.2-152.1 to require property bail bondsmen to submit a fingerprint based criminal background check to assist the Circuit Court judge in issuing a certificate of good moral character.

Recommendation 13

Amend §19.2-152.1 to require all demographic information of property bail bondsmen and their companies be on file as of October 1, 2003, or powers to bond shall be suspended until all information is provided to the Circuit Court.

Recommendation 14

Amend §19.2-152.1 for the Supreme Court of Virginia to prescribe a form for property bail bondsmen to file monthly reports.

III. Methodology

The Virginia State Crime Commission staff utilized several research

methodologies to address the issues of the study mandate. Interviews were conducted with judges, clerks of court, and magistrates throughout the Commonwealth. Interviews and meetings were also held with State Corporation Commission personnel in the agency licensing section of the property and casualty division and the financial regulation division. After consultation with the various court representatives, the staff of the Crime Commission requested all circuit, general district, and juvenile and domestic relations courts to respond with information to a questionnaire concerning bail bondsmen. Specifically, this request included copies of all Recognizance forms from each court for a specified month-long period, all documents used to verify collateral, all documents used to verify powers of attorney, and list of persons who have received licenses to bond in each court. Finally, staff requested and analyzed a Virginia State Police statewide background check for all property and casualty agents licensed in the Commonwealth. This analysis included a special group of agents who only engage in bail bonding.

IV. Background

There are two types of bail bondsmen in Virginia: surety bail bondsmen and property bail bondsmen. Both types of bondsmen must be granted bonding privileges by a Circuit Court judge prior to being allowed to conduct business in Virginia.

Surety Bail Bondsmen

Surety bail bondsmen are property and casualty (P&C) insurance agents regulated by the State Corporation Commission (SCC). The SCC requirements for becoming a P&C agent require the applicant:

- be 18 years of age;
- pass an insurance exam;
- pay a \$15 application fee;
- pay a \$15 exam fee;
- provide a current copy of their Virginia criminal background history;
- obtain an employment appointment within 6 months; and,
- maintain continuing education of 16 hours every 2 years.²

There are no fingerprint based background checks, photograph identification requirements or license renewals for any P&C agents. Property and casualty insurance agents provide a wide variety of types of insurance. Such insurance includes homeowner's, burglary and theft, and surety insurance. Property and casualty agents that engage in surety insurance often become sureties for, or guarantee, the undertakings required or permitted in all judicial proceedings. Those property and casualty insurance agents that engage in the sale of surety insurance for the purposes of criminal judicial proceedings are engaged in the practice of bail bonding. Such agents shall be referred to as surety bail bondsmen for the remainder of this report.

Unlike other P&C agents, surety bail bondsmen must have a Certificate of Good

² Source: Virginia State Corporation Commission Licensing Information Bulletin, 2001.

Moral Character³ and be given qualifying powers of attorney to engage in bonding activity in the courts.⁴ The Certificate is distributed at the discretion of the court. This Certificate certifies that the applicant is of good moral character, that his past conduct before the courts of said county or city has not been unsatisfactory, and that he is suitable to be licensed.⁵ This Certificate is valid for every court in the Commonwealth. The bearer must only present it in the jurisdiction for which he desires to engage in bail bonding. There is currently no method to track such a certificate as to its validity except through the originating court. The bondsman with a certificate is free to bond in every jurisdiction in the Commonwealth. If a certificate is rescinded or suspended, neither a clerk nor a judge in any other county has any type of notice or information of such an action. If the originating judge rescinds the certificate, no other judge would be aware as the originating judge would have no idea where the bondsman is actively bonding. Additionally, the surety bail bondsmen's qualifying power of attorney is recorded with the clerk of the circuit court.⁶

Oversight of Surety Bail Bondsmen

Section 38.2-1826 of the *Virginia Code* mandates that all insurance agents, including those acting as surety bail bondsmen, report name changes, felony convictions, and final dispositions of any administrative actions within 30 days to the SCC.⁷ While the SCC does have the authority to investigate, suspend or revoke licenses or administer fines to its agents,⁸ the SCC is hindered in its authority by its reliance upon the reporting of incidents by agents or others, as opposed to pro-active investigation of the agents within the SCC's purview. From July 1997-September 2002, the SCC has launched approximately 27 field investigations of surety agents.⁹ While the SCC does require a Virginia criminal background check, the SCC does not have the statutory authority to require or seek from applicants a national criminal history check.¹⁰ The SCC also has limited discretion in suspending licenses pending investigations of their agents.¹¹ Almost one-half of the 34,498 licensed P&C insurance agents have a registered address outside of Virginia.¹²

³ Va. Code Ann. §19.2-152.1 (2002). See attachment 2.

⁴ Va. Code Ann. §38.2-2420 (2002). See attachment 3.

⁵ Va. Code Ann. §19.2-152.1 (2002). See *supra* note 3.

⁶ Va. Code Ann. §38.2-2416 (2002) -requires that (1) that revocation of the power of attorney be noted by the Clerk on the margin of the page of the deed book where the power of attorney is recorded; and, (2) reference to the book and page where the instrument of revocation is recorded. See *Attachment 4*.

⁷ Va. Code Ann. §38.2-1826 (2002). See attachment 5.

⁸ Va. Code Ann. §38.2-1831 (2002). See attachment 6.

⁹ Source: SCC. At the time of reporting this information, the case dispositions are as such: 3 are ongoing; 1 resulted in revocation; 5 voluntarily surrendered their licenses; 4 received warnings; 5 closed without penalty; and, 9 settled resulting in fees of approximately \$6,600.

¹⁰ The SCC's limitation with a Virginia State Criminal Background Report and not a fingerprint-based National Background Check does not allow the SCC to know of the agent's criminal background in 49 other states. Furthermore, without a renewal or updated report, a subsequent criminal conviction to the licensed agent will not be known to the SCC without voluntary disclosure by the agent.

¹¹ Va. Code Ann. §38.2-1832 (2002). See attachment 7.

¹² Source: SCC database of P&C agents, summer 2002.

Property Bail Bondsmen

Virginia Code §19.2-152.1 sets forth the requirements for an individual, or the agent of an individual, who pledges real property, cash or certificates of deposit issued by a federally insured institution, or any combination thereof as security for a bond, as defined in §19.2-119,¹³ that has been posted to assure performance of terms and conditions specified by order of an appropriate judicial officer as a condition of bail. Such an individual is referred to as a professional bondsmen in §19.2-152.1, but for clarification between the two types of bail bondsmen and to create a more accurate term for the bondsmen whose collateral primarily consists of real property, property bail bondsmen shall be used for the purpose of this report and has been recommended to be defined as such by the Crime Commission. Section 19.2-152.1 sets forth the requirements for property bail bondsmen,¹⁴ including: a certificate of good moral character; a discretionary use of an FBI background check; and, collateral of \$200,000.¹⁵ In determining the collateral amount of \$200,000, a circuit court judge is given the discretion to place a deed of trust on real estate, and require the property bail bondsman to furnish an “acceptable appraisal” and title certificate on the real estate to the clerk of the appropriate court.¹⁶

The only method to monitor property bail bondsmen to ensure that they have not exceeded their collateral limits is a monthly filing with the clerk of the court listing all outstanding bonds on which each bondsman was obligated as of the last day of the preceding month.¹⁷ Additionally, the amount of penalty of each such bond must be included on this list.¹⁸ However, there is no method of determining whether or not a bondsman has or has not bonded over the amount of his listed collateral either within each court district or across court districts.

V. First Year Data Analyses

The Crime Commission undertook several data analyses during the first year of the House Joint Resolution 201 Study. A discussion of each of these follows.

¹³ Va. Code Ann. §19.2-119 (2002). *See* attachment 8.

¹⁴ Va. Code Ann. §19.2-152.1 (2002). *See supra* note 3.

¹⁵ However, there is a grandfather clause in Va. Code Ann. §19.2-152.1 (2002): “No court shall certify and no revenue license shall be issued as provided in this section to a person who had not obtained a certification and license prior to July 1, 1989, unless such person provides to the issuing court collateral of \$200,000 on his bonds and \$200,000 on the bonds of each of his agents.”

¹⁶ Va. Code Ann. §19.2-152.1 (2002).

¹⁷ *Id.*

¹⁸ *Id.* Additionally, interviews with clerks revealed confusion with this requirement. Some clerks interpret this list filing as only to the originating court of the bondsmen, i.e., wherein he received his certificate of good moral character. Therefore, the bondsmen would not file such a listing in the courts where he bonds, only in the originating court.

Other State Statute Review

A limited statutory and administrative law review of other states statutes was done primarily to review the requirements for licensure of insurance agents. This analysis found:

- 25 states have a requirement for a written exam to engage in bail bonding;¹⁹
- 17 states have mandated educational requirements;²⁰
- 11 states have provisions for continuing educational requirements;²¹
- Mandates for continuing education hours range from 3-15 hours per year;²²
- At least 31 states have mandated license renewal ranging between every 1-3 years;²³
- 9 states have requirements for a fingerprint submission to engage in bail bonding;²⁴ and,
- 7 states have provisions to require a photo submission at application.²⁵

In addition, the types and amounts of fees charged by other states varied widely. Exam fees ranged from \$15-\$100, license fees ranged from \$15-\$400, and license renewal fees ranged from \$10-\$250.²⁶

Virginia Courts Information

In the summer of 2002, the Virginia State Crime Commission requested all Circuit, General District, and Juvenile and Domestic Relations Courts in Virginia provide information concerning bail bondsmen and collateral used for bonding. The following were requested:²⁷

- (i) a detailed listing of all surety bondsmen;
- (ii) a detailed listing of all property bondsmen;
- (iii) a detailed listing of bondsmen whose privileges have been rescinded by the court;
- (iv) a listing of all complaints on file regarding bondsmen;
- (v) a listing of all outstanding bonds obligated by professional bondsmen for

¹⁹ Alaska, Arizona, Arkansas, California, Connecticut, Delaware, Florida, Georgia, Indiana, Kansas, Louisiana, Maryland, Massachusetts, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, North Carolina, Ohio, South Carolina, Vermont, Washington, Wyoming.

²⁰ Arizona, California, Indiana, Louisiana, Maryland, Minnesota, Mississippi, Nebraska, Nevada, New Hampshire, New Mexico, North Carolina, Ohio, South Carolina, Texas, Utah, Washington.

²¹ Colorado, Iowa, Louisiana, Maryland, Massachusetts, Mississippi, Nevada, North Carolina, North Dakota, Oklahoma, Utah.

²² Source: National Association of Insurance Commissioners.

²³ Source: National Association of Insurance Commissioners.

²⁴ Colorado, Florida, Mississippi, Nevada, North Carolina, South Carolina, South Dakota, Texas, Utah.

²⁵ Iowa, Mississippi, North Carolina, South Carolina, South Dakota, Texas, Utah.

²⁶ Source: National Association of Insurance Commissioners.

²⁷ See attachment 9.

- April and May 2002;
- (vi) a listing of any cases involving forfeiture of bond in the past two years; and,
 - (vii) copies of all Recognizance forms for a period spanning July-August of 2002.

The vast majority of information that was received came from the circuit courts. Fifty-five percent (55%) of the courts reported information on surety agents.²⁸ Forty-eight percent (48%) reported information regarding professional bondsmen.²⁹ Twenty circuit courts never responded even after a second request for information. Staff at the Crime Commission received over 19,000 recognizance forms. Unfortunately, very little concrete information was able to be extracted as the court's information on bondsmen, collateral, forfeitures, and complaints were often unavailable, unknown, incomplete or outdated.³⁰

Virginia Background Checks on Property & Casualty Insurance Agents³¹

There are 34,498 P&C insurance agents licensed by the SCC.³² Of this total, the SCC is incapable of distinguishing those agents who engage in bail bonding. Between 1994-1999, the insurance exam required by the SCC for those desiring a P&C insurance license was waived for those who specifically desired to engage in bail bonding. These individuals are listed separately by the SCC in their computer system. There are currently over 260 of these "O38" agents.³³

Due to the perpetual nature of insurance licensure and the SCC's inability to obtain criminal background information from insurance agents after initial licensure, the Virginia State Police conducted Virginia based background checks on all P&C and "O38" agents to determine the compliance with voluntary disclosure requirements concerning criminal convictions. The Virginia criminal background checks were not based on the more reliable fingerprint based identification, but only on such identifying information including name, address, and social security numbers.

The VCIN background checks found 464 agents³⁴ with reported felony and/or misdemeanor convictions:

- Forty-four agents were convicted of felony offenses only;

²⁸ Source: HJR 201 Study first year data analyses (67 of 122 courts).

²⁹ Source: HJR 201 Study first year data analyses (59 of 122 courts).

³⁰ Recognizance forms are still being reviewed for issues relating to year 2 of this study.

³¹ Criminal background checks were only conducted on property and casualty insurance agents as the information on property bail bondsmen was difficult to ascertain for the purposes of conducting a VCIN check. As the surety bail bondsmen come from a finite group of people (P&C insurance agents), those agents who had criminal backgrounds may or may not be "bail bondsmen," but are eligible to engage in bail bonding.

³² Source: SCC database of P&C agents; summer 2002.

³³ These individuals are referred to as "O38's," denoting the code used in the SCC system.

³⁴ Source: Virginia State Police. In some instances, multiple names and/or social security numbers were present in the criminal histories of individuals; thus, there may be some false positives.

- 113 agents were convicted of felony and misdemeanor offenses; and,
- 307 agents were convicted of misdemeanor offenses only.

In addition, 157 licensed agents with felony convictions had a total of 623 felonies and 671 misdemeanors. These agents had on average, four felony convictions each and the number of felony convictions per agent ranged from one to fifty-four. Seventy-two percent (72%) of the 157 felons had the felony conviction prior to licensure.

The majority of the felony convictions were for financial crimes. The proportion of felony convictions by type of offense were:

- 21% Drug Crimes;
- 50% Financial Crimes;
- 19% Violent Crimes/Crimes Against Persons; and,
- 10% Other Crimes.

Examples of some of the more serious felony convictions included:

- larceny;
- possession and distribution of PCP, heroin, and/or cocaine;
- use of a firearm in the commission of a felony;
- sodomy
- malicious wounding;
- robbery;
- incest; and,
- murder.

VI. Summary and Recommendations

There is no reliable source of data and information for neither surety bail bondsmen nor property bail bondsmen in Virginia. The SCC is unable to distinguish which P&C agents engage in bail bonding, but maintain a separate data base for the “O38’s,” who engage solely in bail bonding. Due to the limitations placed upon the SCC to access the criminal backgrounds of insurance agents, there are licensed P&C agents and those acting as surety bail bondsmen who have felony records and are acting as agents of the court to ensure the presence of criminal defendant’s in Virginia’s courts. While numerous other professions in the Commonwealth require license renewals and re-licensure,³⁵ Virginia is only one of only nineteen states that have no requirement for license renewal of insurance agents.³⁶

³⁵ Waste management facility operators (18 Va. Admin. Code §155-20-160 (2002)); polygraph examiners (18 Va. Admin. Code §120-30-120 (2002)); barbers and cosmetologists (18 Va. Admin. Code §41-30-160 (2002)); auctioneers (18 Va. Admin. Code §25-21-90 (2002)); real estate appraisers (18 Va. Admin. Code §130-120-30 (2002)); grain dealer (Va. Code Ann. §3.1-722.18 (2002)); seed marketer (Va. Code Ann. §3.1-275.2 (2002)); and, pesticide business licensee (Va. Code Ann. §3.1-249.46 (2002))

³⁶ See *supra* note 20.

As requests for property bail bondsmen were incomplete and often unavailable from the circuit courts of the Commonwealth, no definitive information was received by the Crime Commission as to how many property bail bondsmen there are operating in the Commonwealth. What little information was received, however, indicated that there are property bail bondsmen who are engaged in bonding with inadequate amounts of equity and outdated or inoperable powers of attorney. Furthermore, the response from the circuit court clerks indicated confusion or disregard to the requirements and actions of property bail bondsmen.

Recommendations

Recommendation 1

Codify the definitions of those who engage in the bail bond industry as insurance agents (surety bail bondsmen) and those who engage in the bail bond industry with real property or other personal property (property bail bondsmen).

Surety Bail Bondsmen – an individual licensed pursuant to Article 6.2 (§38.2-1856 et seq.) of this chapter who sells, solicits, or negotiates insurance as defined in §38.2-121 on behalf of insurers licensed in this Commonwealth, pursuant to which the insurer becomes surety on or guarantees a bond, as defined in §19.2-119, that has been posted to assure performance of terms and conditions specified by order of an appropriate judicial officer as a condition of bail.

Property Bail Bondsmen – an individual, or the agent of an individual, who pledges real property, cash or certificates of deposit issued by a federally insured institution, or any combination thereof as security for a bond, as defined in §19.2-119, that has been posted to assure performance of terms and conditions specified by order of an appropriate judicial officer as a condition of bail.

There was great confusion in discussing the issue of bail bondsmen. Property bail bondsmen are referred in the *Code* as “professional bondsmen.” These individuals most often rely on real property as their collateral to bond, so the term “property bail bondsmen” was adopted. Quite often, the term “professional bondsman” was confused with the surety bail bondsmen as they were acting as sureties for insurance companies. Many people felt that made those individuals “professional.” However, there was no term for those insurance agents who act in the capacity of bail bondsmen except for “bail bondsmen.” As there was no term for these individuals to clearly distinguish them from “property bail bondsmen,” “surety bail bondsman” was adopted.

Recommendation 2

Add a new section for surety bail bondsmen in Title 38.2, to distinguish those insurance agents who engage in bail bonding to distinguish them from other insurance agents.

As the HJR 201 study revealed that these insurance agents were acting in a capacity different than other P&C agents, it was determined that the best way to distinguish the

“surety bail bondsman” was to create a new section in the *Code*.

Recommendation 3

Amend the *Code* to require the State Corporation Commission to establish a separate data base for surety bail bondsmen.

As the SCC already distinguished the group of insurance agents that only engaged in bail bonding (the “O38’s”), the Crime Commission determined that it would be best to maintain a separate data base for those agents who were acting as agents of the court.

Recommendation 4

Amend the *Code* to prohibit the State Corporation Commission from licensing surety bail bondsmen who have been convicted of a felony offense unless the agent’s rights have been restored by the Governor.

The Crime Commission determined that those acting as agents of the court, and acting as sureties for defendants to ensure their attendance in court, should not be felons without restoration by the Governor.

Recommendation 5

Amend the *Code* to require as of July 1, 2003, all current insurance agents who engage in the bail bond industry go through a license renewal process whereby a national criminal background check will be conducted.

As the SCC does not require a national background check nor a license renewal process, and those with criminal records are currently able to act as agents of the court, and to ensure the safety of the public, the Crime Commission recommends a license renewal process to ensure that agents are compliant with the law.

Recommendation 5A

Require that persons applying for new licenses and re-licensure and/or renewal shall, as part of the licensure process:

1. Shall submit fingerprints and personal descriptive information to the CCRE to be forwarded to the FBI for the purposes of obtaining a national criminal background check;
2. The cost of such check shall be paid by the applying agent; and,
3. The State Police shall submit an eligibility report to the SCC prior to licensure.

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Amend the *Code* to require the State Corporation Commission renew surety bail bondsmen licenses every two years; renewal requirements should at a minimum consist of a national history background check.

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Amend §38.2-1831 to mandate that the State Corporation Commission shall revoke any

surety bail bondsmen's license for any one of the 16 listed prohibitions, except for 11, 15, and 16, whereby the State Corporation Commission may retain the discretionary standard.

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Amend §38.2-1832 to give the State Corporation Commission discretion in suspending licenses pending and/or during investigation of surety bail bondsmen.

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Amend the *Code* to require the State Corporation Commission to collect, as part of licensure and renewal of surety bail bondsmen, copies of the powers-of-attorney required under §38.2-2416.

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Amend the *Code* to require the State Corporation Commission to provide notice to the clerks of court of "suspended" companies with those of companies whose ability to insure has been revoked under §38.2-2412.

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Amend the *Code* to require that all powers vested to property bail bondsmen under §19.2-152.1 be revoked as of October 1, 2003, unless a certified tax assessment or appraisal of the property (within 1 year) and an affidavit verifying sufficient equity in such property is on file in the Circuit Court where bonding privileges were granted. This shall be done yearly each July 1.

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Amend §19.2-152.1 to require property bail bondsmen to submit a fingerprint based criminal background check to assist the Circuit Court judge in issuing a certificate of good moral character.

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Amend §19.2-152.1 to require all demographic information of property bail bondsmen and their companies be on file as of October 1, 2003, or powers to bond shall be suspended until all information is provided to the Circuit Court.

Recommendation 14

Amend §19.2-152.1 for the Supreme Court of Virginia to prescribe a form for property bail bondsmen to file monthly reports.

VII. Acknowledgements

County of Henrico

John Mehfoud, Chief Magistrate, 14th Judicial District
Yvonne Smith, Clerk of the Circuit Court
Toby Vick, Commonwealth's Attorney

County of Isle of Wight

The Honorable Rodham T. Delk, Jr., Presiding Judge, Circuit Court

City of Hampton

James P. Bohnaker, Clerk of the Circuit Court
Laura S. Sandford, Court Administrator, Circuit Court
The Honorable Wilford Taylor, Jr., Chief Judge, Circuit Court

City of Newport News

Gary Anderson, Chief Deputy Clerk of the Circuit Court
Rex Davis, Clerk of the Circuit Court

City of Petersburg

The Honorable James F. D'Alton, Presiding Judge, Circuit Court
Benjamin O. Scott, Clerk of the Circuit Court
Michael D. Wessel, Magistrate, 11th Judicial District

City of Virginia Beach

Mike Davey, Clerk, General District Court
The Honorable Edward J. Hanson, Jr., Judge, Circuit Court
R.S. Hill, Chief Magistrate, 2nd Judicial District
J. Curtis Fruit, Clerk of the Circuit Court
Deborah Sager, Judicial Assistant

Department Of Criminal Justice Services

A.C. "Tony" Casale

Department of Professional and Occupational Regulation

Mary C. Broz, Communications Director
James L. Guffey, Enforcement, Deputy Director

Supreme Court of Virginia

Robert Baldwin, Esq., Executive Secretary
Janice Conway, Technical Assistant
Paul DeLosh, Circuit Court Technical Assistant
Bobby Lewis, Magistrate Technical Assistant
Kathy Mays, Director of Judicial Planning

State Corporation Commission

Vicki M. Ayers, Systems Supervisor; Agents Licensing Section
Michael T. Beavers, Supervisor; Agent Investigations Section
Alfred W. Gross, Commissioner of Insurance
Alvin Nicely, Senior Investigator
Van Tompkins, Principal Insurance Analyst

Virginia State Police

Lt. Tom Turner
Lt. Robert Kemmler

Rappahannock Regional Jail

Richard A. Martin, Director of Programs & Community Corrections

Other States' Bail Experts

Tom Nickolich, Exit Bail Bonds, Former Chairman, Arkansas Professional Bail Bond Company and Professional Bail Bond Licensing Board
Starkey Ray, Kentucky Pre-trial and Court Services

Bail Industry Representatives

Fred Atwell, Bounty Hunter
Dennis Bartlett, American Bail Coalition
Gary Byler
Prudence Mathews, Professional Bondsman
Karl L. Williams, Henrico Bonding Company

Thank you to Those Who Wish to Remain Anonymous

Attachment 1:
House Joint Resolution 201 (2002)

2002 SESSION

ENROLLED

HOUSE JOINT RESOLUTION NO. 201

Directing the Virginia State Crime Commission to study certain issues pertaining to bail bondsmen, bounty hunters, and bond payment to the court.

Agreed to by the House of Delegates, February 12, 2002

Agreed to by the Senate, March 5, 2002

WHEREAS, Section 19.2-152.1 of the Code of Virginia vests with circuit court judges the responsibility for the certification of bail bondsmen, but does not specify any means or standards for an employment investigation prior to certification, other than simply a review of the record of the applicant furnished by the Federal Bureau of Investigation and a review of the applicant's past conduct in that circuit court; and

WHEREAS, because § 19.2-152.1 provides that every bail bondsman "shall be subject to and governed by any reasonable rules of conduct or procedure set up by the judge of the court in which he is acting as a bondsman," a bail bondsman who operates in a number of jurisdictions is likely to be subject to differing local rules; and

WHEREAS, the dispersal of certification responsibility among the respective circuit court judges, the lack of mandatory licensure or training requirements for bail bondsmen, and the lack of a statutory framework impedes the development of uniform statewide standards and procedures for the certification and regulation of bail bondsmen beyond the threshold financial criteria specified in § 19.2-152.1 of the Code of Virginia, places circuit court judges in multiple, potentially conflicting roles; and

WHEREAS, the current law does not provide a mechanism for the investigation or prosecution of complaints against bail bondsmen by a nonjudicial officer for the violation of the various local rules of conduct or procedure, the respective circuit court judges are implicitly left with both an investigative role and a prosecutorial role for such proceedings, in addition to their adjudicative role; and

WHEREAS, Virginia law authorizes a person to arrest someone for whom he has posted bond and surrender him to the court or appropriate authority, and thereby puts a bail bondsman in the same posture as a law-enforcement officer with an arrest warrant; and

WHEREAS, sworn law-enforcement officers, unlike bounty hunters, are required to have a certain level of education and successfully complete job-required training and continue their training throughout their careers; and

WHEREAS, approximately 225,000 persons are admitted to jail awaiting trial annually, and greater than 60 percent of these persons are misdemeanor defendants held in lieu of meeting the conditions of a secure bond; and

WHEREAS, 87 percent are subsequently released, the majority after paying a percentage bond, and often an administrative fee, to a corporate or private bond agent, the amounts of which are not recoverable even when bond conditions are met; and

WHEREAS, a significant number of these defendants or their families are subsequently required to pay, exclusive of fines and other fees, court costs ranging from about \$40 to \$200; and

WHEREAS, Virginia's major bail reform legislation of 1973 and 1999 reflects language similar to the federal Bail Reform Act of 1966 and bail reform in the Comprehensive Crime Control Act of 1984; and

WHEREAS, the federal bail acts historically provided the means for a defendant to pay a percentage bond to the court, the majority of which is recoverable when conditions of bail are met, and that 27 states in the nation and the District of Columbia include similar provisions in their bail legislation that is absent in Virginia's; and

WHEREAS, these bail procedures allow the court to reimburse the accused for the majority of the bail amount subject to appearance until final disposition or with the agreement of the defendant to keep the percentage bail for payment, where applicable, of fees, costs and fines upon conviction or following a deferred proceeding; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Virginia State Crime Commission be directed to study certain issues pertaining to bail bondsmen, bounty hunters, and bond

payment to the court. In conducting the study, the Commission shall (i) determine the need for regulation, training and oversight of bail bondsmen and bounty hunters; (ii) examine the feasibility and methods of providing for a percentage of bond payment to the court; and (iii) determine whether the certification and supervision of bail bondsmen and bounty hunters should be transferred from the judicial branch to the executive branch of state government.

The Commission shall, at a minimum, solicit input and assistance from representatives of the Department of Criminal Justice Services, the Office of the Executive Secretary of the Supreme Court, and local pretrial services agencies.

All agencies of the Commonwealth shall provide assistance to the Commission, upon request.

The Commission shall complete its work by November 30, 2002, and shall submit its written findings and recommendations to the Governor and the 2003 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.



Attachment 2:
Va. Code Ann. §19.2-152.1

Attachment 2

§ 19.2-152.1. Bondsmen's certificate; limitations on bail business.

The revenue license authorized in § 58.1-3724 shall not be issued by any county, city or town unless and until the applicant shall have first obtained a certificate from the judge of the circuit court of the county or city, in which he desires to carry on the business of professional bondsman, approving the issuance of the license and certifying that the applicant is of good moral character, that his past conduct before the courts of said county or city has not been unsatisfactory and that he is suitable to be so licensed. Before the issuance of such certificate the judge of the circuit court may review the record of the applicant as furnished by the Federal Bureau of Investigation. Prior to the issuance of such certificate, the judge of the circuit court may confer with the judge or judges of those courts in which such bondsman seeks to act. A license granted to a professional bondsman in any such county or city pursuant to § 58.1-3724 shall authorize such person to enter into such bonds in any other county or city, provided that upon entering into any bond conditioned upon real estate, cash or certificates of deposit issued by a federally insured institution, or any combination thereof as collateral in any other county or city such bondsman makes affidavit that the aggregate of the penalty of such bond together with all other bonds in the Commonwealth on which he has not been released from liability is not in excess of the true market value of the equity in his real estate, cash or certificates of deposit issued by a federally insured institution, or any combination thereof.

No professional bondsman shall enter into any such bond if the aggregate of the penalty of such bond and all other bonds, on which he has not been released from liability, is in excess of the true market value of his real estate, cash or certificates of deposit issued by a federally insured institution, or any combination thereof. Each professional bondsman, if so directed by the judge of the circuit court of the county or of the city in which he is licensed, shall place a deed of trust on the real estate that he is using for the limit of his expected bonded indebtedness to secure the Commonwealth of Virginia and shall name the attorney for the Commonwealth of the affected locality as trustee under the deed of trust or shall place the requisite cash or certificates of deposit issued by a federally insured institution, or any combination thereof with the court. In addition thereto, he shall furnish the clerk of the appropriate court an acceptable appraisal and title certificate of the real estate subject to any such deed of trust. Each professional bondsman licensed hereunder shall file with the clerk of the circuit court of the county or city in which he is licensed not later than the fifth day of each month a list of all outstanding bonds on which he was obligated as of the last day of the preceding month, together with the amount of the penalty of each such bond.

No court shall certify and no revenue license shall be issued as provided in this section to a person who had not obtained a certification and license prior to July 1, 1989, unless such person provides to the issuing court collateral of \$200,000 on his bonds and \$200,000 on the bonds of each of his agents.

Any professional bondsman or agent for any professional bondsman, qualified under this section, shall be subject to and governed by any reasonable rules of conduct or procedure set up by the judge of the court in which he is acting as a bondsman. Such rules shall include the

requirement that such bondsman give written notice to the clerk of the circuit court of each change in the number of agents in his employ within seven days of such change and provide \$200,000 collateral for each additional agent and may include a requirement that such bondsman or agent place a reasonable amount of cash or negotiable instruments in escrow with the clerk of said court to be held during the time such bondsman or agent is acting as a bondsman in said court, provided that said clerk is acting under a bond of sufficient amount and coverage to insure protection against loss, theft, or misappropriation. Upon his violation of such rules, he may, after hearing upon a charge of such violation, be suspended from entering into further bonds in said court by the judge thereof. If such bondsman or agent fails to have in escrow with the clerk of said court a sum sufficient to cover any forfeiture of bond against him and fails or refuses to pay such forfeiture after notice and demand by the judge of the court he may be suspended by such judge from entering into further bonds in said court until the forfeiture is paid or it is adjudicated that he is not liable thereon.

No person after July 1, 1981, who has previously not been licensed shall be licensed hereunder either as a professional bondsman or agent for any professional bondsman, when such person, his or her spouse, or a member of his or her immediate family holds any office as magistrate, clerk or deputy clerk of any court.

Nothing in this section shall be construed to apply to guaranty, indemnity, fidelity and security companies doing business in Virginia or their agents and attorneys-in-fact, under the provisions of Chapter 24 (§ 38.2-2400 et seq.) of Title 38.2, except that agents and attorneys-in-fact of guaranty, indemnity, fidelity and security companies entering into bonds for bail, appearances, costs or appeal in criminal cases, shall be required to obtain a certificate from the judge of the circuit court in which he desires to carry on the business of professional bondsman, certifying that the applicant is of good moral character, that his past conduct before the courts of said county or city has not been unsatisfactory and he is suitable to be a licensed bondsman. Such certificate shall authorize such persons to enter into such bonds in any other county or city. Such agents and attorneys-in-fact shall be subject to any reasonable rules of conduct or procedure and discipline for the violation of same as may be ordered by the judge of the court in which they act for such companies. No person may act as such an agent or attorney-in-fact when such person, his or her spouse, or a member of his or her immediate family holds any office as magistrate, clerk or deputy clerk of any court.

(1984, c. 675; 1988, cc. 473, 475; 1989, c. 569; 1993, c. 423; 1997, c. 455.)

License exemption. - Exemptions from taxation must be strictly construed against the taxpayer. *Roberts v. Board of Supvrs.*, 249 Va. 2, 453 S.E.2d 258 (1995).

Any doubt on the question whether an exemption applies must be resolved in favor of the taxing authority, and the burden is upon the taxpayer to show that he comes within the terms of the exemption. *Roberts v. Board of Supvrs.*, 249 Va. 2, 453 S.E.2d 258 (1995).

Attachment 3:
Va. Code Ann. §38.2-2420

Attachment 3

§ 38.2-2420. Bonds executed under power of attorney binding on insurer.

Any bond or obligation executed in the name and on behalf of the insurer as surety under the authority of the power of attorney shall have the same force, effect and validity, and shall be as binding upon the insurer in the name and on behalf of which it is executed as if it were properly executed by the insurer itself through its officers under its common seal. For the purpose of this section, the seal of the insurer or the seal of the attorney-in-fact shall not be required to be affixed to the bond or obligation.

(Code 1950, § 38-338; 1952, c. 317, § 38.1-657; 1986, c. 562.)

Attachment 4:
Va. Code Ann. §38.2-2416

Attachment 4

§ 38.2-2416. Power of attorney to be recorded.

Each power of attorney from a fidelity and surety insurer to an agent making the agent an attorney-in-fact to execute any bond or other obligation in the name and on behalf of the insurer as surety, shall, unless the power of attorney is special and limited to one transaction or to definitely stated transactions, be duly acknowledged for recordation and recorded in the deed book in the clerk's office of each county or corporation in which the powers delegated by it are to be exercised.

(Code 1950, § 38-339; 1952, c. 317, § 38.1-653; 1986, c. 562.)

Attachment 5:
Va. Code Ann. §38.2-1826

Attachment 5

§ 38.2-1826. Requirement to report to Commission.

A. Each licensed agent shall report within thirty calendar days to the Commission, and to every insurer for which he is appointed any change in his residence or name.

B. Each licensed agent convicted of a felony shall report within thirty calendar days to the Commission the facts and circumstances regarding the criminal conviction.

C. Each licensed agent shall report to the Commission within thirty calendar days of the final disposition of the matter any administrative action taken against him in another jurisdiction or by another governmental agency in this Commonwealth. Such report shall include a copy of the order, consent to order or other relevant legal documents.

D. The license authority of any licensed resident agent shall terminate immediately when such agent has moved his residence from this Commonwealth, whether or not the Commission has been notified of such move.

(1979, c. 513, § 38.1-327.37; 1986, c. 562; 1987, c. 521; 1999, c. 59; 2001, c. 706.)

The 1999 amendment inserted the subsection A designator, and added subsection B.

The 2001 amendments. - The 2001 amendment by c. 706, effective July 1, 2001, inserted "calendar" in subsections A and B, deleted the former last sentence in subsection A, which read: "Any licensed agent who has moved his residence from this Commonwealth shall have all licenses immediately terminated by the Commission," and added subsections C and D.

Attachment 6:
Va. Code Ann. §38.2-1831

Attachment 6

§ 38.2-1831. Grounds for placing on probation, refusal to issue or renew, revocation, or suspension of license.

The Commission may, in addition to or in lieu of a penalty imposed under § 38.2-218, place on probation, suspend, revoke or refuse to issue or renew any person's license for any one or more of the following causes:

1. Providing materially incorrect, misleading, incomplete or untrue information in the license application or any other document filed with the Commission;
2. Violating any insurance laws, or violating any regulation, subpoena or order of the Commission or of another state's insurance regulatory authority;
3. Obtaining or attempting to obtain a license through misrepresentation or fraud;
4. Engaging in the practice of rebating;
5. Engaging in twisting or any form thereof, where "twisting" means inducing an insured to terminate an existing policy and purchase a new policy through misrepresentation;
6. Improperly withholding, misappropriating or converting any moneys or properties received in the course of doing insurance business;
7. Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance;
8. Having admitted or been found to have committed any insurance unfair trade practice or fraud;
9. Having been convicted of a felony;
10. Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, or untrustworthiness in the conduct of business in this Commonwealth or elsewhere, or demonstrating financial irresponsibility in the handling of applicant, policyholder, agency, or insurance company funds;
11. Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory;
12. Forging another's name to an application for insurance or to any document related to an insurance transaction;
13. Improperly using notes or any other reference material to complete an examination for an insurance license;

14. Knowingly accepting insurance business from an individual who is not licensed;

15. Failing to comply with an administrative or court order imposing a child support obligation; or

16. Failing to pay state income tax or comply with any administrative or court order directing payment of state income tax.

(Code 1950, § 38.1-311; 1952, c. 317; 1970, c. 656; 1979, c. 513, § 38.1-327.43; 1986, c. 562; 1987, c. 521; 1996, c. 10; 2001, c. 706.)

The 2001 amendments. - The 2001 amendment, effective July 1, 2001, by c. 706 rewrote the section.

Purpose. - Predecessor statute was designed to compel a faithful discharge of that duty which an agent owes to his principal. *Commonwealth v. Sharp*, 155 Va. 714, 156 S.E. 570 (1931); *National Sur. Co. v. Page*, 59 F.2d 370 (4th Cir. 1932).

Meaning of "misappropriate". - In predecessor statute providing for the revocation of a certificate of an insurance agent, the use of the word "misappropriate" was general in its scope. Its meaning was not limited to that appropriation of money which approaches the crime of embezzlement but extended to a willful withholding of money due by the agent to his principal. *Commonwealth v. Sharp*, 155 Va. 714, 156 S.E. 570 (1931).

The contention of complainant was that a trust relationship existed between plaintiff and defendant, and when it appeared that defendant had written a policy of insurance and by reason thereof had become indebted to the insurer and failed to account for the premium, he then and there was technically guilty of misappropriation of funds. It was held that the statute contemplated more than a mere failure to pay money due by the insurance agent. *Commonwealth v. Sharp*, 155 Va. 714, 156 S.E. 570 (1931).

For case applying former § 38-84, relating to misrepresentation and "twisting" by agents, see *Sterling Ins. Co. v. Commonwealth*, 195 Va. 422, 78 S.E.2d 691 (1953).

Attachment 7:
Va. Code Ann. §38.2-1832

Attachment 7

§ 38.2-1832. (Effective September 1, 2002) Refusal to issue and revocation of license; hearing; new application.

A. If the Commission believes that any applicant for a license is not of good character or does not have a good reputation for honesty, it may refuse to issue the license, subject to the right of the applicant to demand a hearing on the application. Except as provided in § 38.2-1042, the Commission shall not revoke or suspend an existing license until the licensee is given an opportunity to be heard before the Commission. If the Commission refuses to issue a new license or proposes to revoke or suspend an existing license, it shall give the applicant or licensee at least ten calendar days' notice in writing of the time and place of the hearing if a hearing is requested. The notice shall contain a statement of the objections to the issuance of the license, or the reason for its proposed revocation or suspension, as the case may be. The notice may be given to the applicant or licensee by registered or certified mail, sent to the last known address of record pursuant to § 38.2-1826, or the last known business address if the address of record is incorrect, or in any other lawful manner the Commission prescribes. The Commission may summon witnesses to testify with respect to the applicant or licensee, and the applicant or licensee may introduce evidence in his or its behalf. No applicant to whom a license is refused after a hearing, nor any licensee whose license is revoked, shall again apply for a license until after the expiration of a period of five years from the date of the Commission's order, or such other period of time as the Commission prescribes in its order.

B. The license of a business entity may be suspended, revoked or refused if the Commission finds, after notice and an opportunity to be heard, that a violation by an individual licensee acting at the direction of, on behalf of, or with the permission of the business entity was known to be a violation by one or more of the partners, officers or managers acting on behalf of the business entity, and the violation was neither reported to the Commission nor corrective action taken.

C. In addition to or in lieu of any applicable denial, suspension or revocation of a license, a person may, after notice and an opportunity to be heard, be subject to a penalty pursuant to § 38.2-218.

D. The Commission shall retain the authority to enforce the provisions of and impose any penalty or remedy authorized by this title against any person who is under investigation for or charged with a violation of this title, even if the person's license or registration has been surrendered, terminated, suspended, revoked, or has lapsed by operation of law.

(Code 1950, § 38.1-312; 1952, c. 317; 1979, c. 513, § 38.1-327.44; 1981, c. 604; 1985, c. 616; 1986, c. 562; 1987, c. 521; 2001, c. 706.)

Section set out twice. - The section above is effective September 1, 2002. For this section as in effect until September 1, 2002, see the preceding section, also numbered 38.2-1832.

The 2001 amendments. - The 2001 amendment by c. 706, effective September 1, 2002, added the subsection A designator, and substituted "expiration of a period of five years from the date of the Commission's order, or such other period of time as" for "time, not exceeding two years" near the end of said subsection, and added subsections B through D.



Attachment 8:
Va. Code Ann. §19.2-119

Attachment 8

§ 19.2-119. Definitions.

As used in this chapter:

"Bail" means the pretrial release of a person from custody upon those terms and conditions specified by order of an appropriate judicial officer.

"Bond" means the posting by a person or his surety of a written promise to pay a specific sum, secured or unsecured, ordered by an appropriate judicial officer as a condition of bail to assure performance of the terms and conditions contained in the recognizance.

"Criminal history" means records and data collected by criminal justice agencies or persons consisting of identifiable descriptions and notations of arrests, detentions, indictments, informations or other formal charges, and any deposition arising therefrom.

"Judicial officer" means, unless otherwise indicated, any magistrate within his jurisdiction, any judge of a district court and the clerk or deputy clerk of any district court or circuit court within their respective cities and counties, any judge of a circuit court, any judge of the Court of Appeals and any justice of the Supreme Court of Virginia.

"Person" means any accused, or any juvenile taken into custody pursuant to § 16.1-246.

"Recognizance" means a signed commitment by a person to appear in court as directed and to adhere to any other terms ordered by an appropriate judicial officer as a condition of bail.

**Attachment 9:
Letter to Virginia Court Clerks**

Attachment 9

June 24, 2002

Dear

During the 2002 legislative session, the Virginia General Assembly passed House Joint Resolution (HJR) 201, which directed the Virginia State Crime Commission to conduct a statewide study of bail bondsmen, methods of bail payment, and bounty hunters (see attached). The Virginia State Crime Commission would like to extend our appreciation for all of your assistance in our previous studies and requests. Only with your input are we able to effectively fulfill our statutory mandates and address the issues presented by the General Assembly. As you are aware, most of the studies assigned to the Crime Commission involve public safety and the laws of the Commonwealth.

We do not lightly ask for the assistance of state and local government officials when conducting our official work. However, it is necessary, once again, for us to ask for your help with one of our studies. HJR 201 requests the Crime Commission to take a much needed examination of bail bondsmen in the Commonwealth. Specifically, the Crime Commission's focus, with regard to the HJR 201 study, is to:

- 1) determine the need for regulation, training and oversight of bail bondsmen and bounty hunters;
- 2) examine the feasibility and methods of providing for a percentage of bond payment to the court; and,
- 3) determine whether the certification and supervision of bail bondsmen and bounty hunters should be transferred from the judicial branch to the executive branch of state government.

In order to adequately collect information on both the bondsmen and the bail process, we will be requiring information from all the clerks of the Juvenile and Domestic Relations Court, the General District Court, and the Circuit Court. We will need for you to provide to the Crime Commission the following:

- 1) A listing of all **surety** bondsmen, along with their social security number, the name of the bonding company they represent, the insurance companies they are bonded by, a copy of the power of attorney for bonding privileges and a copy of the original bondsmen's certificate or order allowing them to conduct business in your court;
- 2) A listing of all **professional** bondsmen, along with their social security number, and copies of deeds of trust or other evidence showing that said bondsmen is acting under a bond of sufficient amount and coverage and a copy of the original bondsmen's certificate or order allowing them to conduct business in your court;
- 3) A listing and social security numbers of all bondsmen whose bond privileges have been rescinded by your court;
- 4) A listing of any and all complaints on file regarding bail bondsmen for the last two years;
- 5) A list of all outstanding bonds on which the professional bondsmen were obligated together with the amount of the penalty of each such bond for the months of April and May 2002, per §19.2-152.1, *Code of Virginia*, as amended;
- 6) A list of cases involving forfeiture of bond during the past two years, that has not been or is unable to be collected. Include the name of the bail bondsman/agent, social security number, defendant, and amount of bond forfeited to your court; and,
- 7) All copies of RECOGNIZANCE form DC-330 for the month of May 2002 in your jurisdiction, ensuring that the offenses charged, bond amount, and the name and address of the surety are not obscured in any manner.

The following requests may or may not be within the purview of your office's responsibilities. If so, please advise the Commission of this in writing and govern yourself accordingly. Send all requested documents and correspondence to:

Mr. Peter L. Tribble, Jr., Legal Analyst
Virginia State Crime Commission
Suite 915, General Assembly Building
910 Capitol Street
Richmond, Virginia 23219.

To ensure we have adequate time to analyze the information and prepare the report, I ask that you provide the information requested no later than July 15, 2002.

We understand that this request is voluminous and will entail some time. However, please understand that this request is most integral in accurately completing this study to fulfill the mandate given by the General Assembly. Do not hesitate to contact Peter L. Tribble, Jr., or Brad Reaves at the Virginia State Crime Commission (804-225-4534) if you should have any questions about this request. Thank you in advance for your help.

Sincerely,

Senator Kenneth W. Stolle
Chairman



**Attachment 10:
Proposed Legislation**

Attachment 10

2003 SESSION

030264228

HOUSE BILL NO. 1905

Offered January 8, 2003

Prefiled January 7, 2003

A BILL to amend and reenact §§ 19.2-152.1, 38.2-1800, 38.2-1824, 38.2-2411, 38.2-2412, and 58.1-3724 of the Code of Virginia and to amend the Code of Virginia by adding in Article 4 of Chapter 9 of Title 19.2 sections numbered 19.2-152.1:1 through 19.2-152.1:7 and in Chapter 18 of Title 38.2 an article numbered 6.2, consisting of sections numbered 38.2-1865.6 through 38.2-1865.13, relating to bail bondsmen; sureties; certification and licensing requirements.

Patrons—Melvin, Albo, Kilgore, McDonnell and Moran; Senators: Howell, Norment and Stolle

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 19.2-152.1, 38.2-1800, 38.2-1824, 38.2-2411, 38.2-2412, and 58.1-3724 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding in Article 4 of Chapter 9 of Title 19.2 sections numbered 19.2-152.1:1 through 19.2-152.1:7 and in Chapter 18 of Title 38.2 an article numbered 6.2, consisting of sections numbered 38.2-1865.6 through 38.2-1865.13, as follows:

§ 19.2-152.1. Certification of property bail bondsmen.

A. As used in this article:

"Certificate" means a certificate issued by the judge of the circuit court of the county or city where an individual desires to carry on the business of a property bail bondsman, which (i) approves the issuance of a license or (ii) if the county or city does not require property bail bondsmen to obtain a license, authorizes a person to carry on the business of a property bail bondsman;

"License" means a revenue license issued by a county or city pursuant to § 58.1-3724;

"Property bail bondsman" means an individual who, for compensation, enters into a bond or bonds for others, whether as a principal or surety, or otherwise pledges real property, cash or certificates of deposit issued by a federally insured institution, or any combination thereof as security for a bond that has been posted to assure performance of terms and conditions specified by order of an appropriate judicial officer as a condition of bail; and

"Surety bail bondsman" has the same meaning ascribed thereto in § 38.2-1800.

~~The revenue~~ *B. A county or city shall not issue a license authorized in § 58.1-3724 shall not be issued by any county, city or town unless and until the to an applicant shall have first obtained unless such person has been issued a certificate from the judge of the circuit court of the county or city, in which he desires to carry on the business of professional bondsman, approving the issuance of the license and certifying. A license shall cease to authorize its holder to act as a property bail bondsman upon the termination of the certificate that approved the issuance of the license.*

C. In any county, city or town that has not enacted an ordinance requiring property bail bondsmen to obtain a license, no person shall act as a property bail bondsman unless such person has been issued a certificate. A certificate shall cease to authorize its holder to act as a property bail bondsman upon the certificate's termination.

D. Prior to October 1, 2003, a judge shall not issue a certificate unless the judge finds that the applicant is of good moral character, that his past conduct before the courts of said county or city has not been unsatisfactory and that he is suitable to be so licensed. Before the issuance of such certificate the judge of the circuit court may review the record of the applicant as furnished by the Federal Bureau of Investigation.

E. Effective October 1, 2003, a judge shall not issue a certificate unless:

1. The judge finds that the applicant is of good moral character, that his past conduct before the courts of said county or city has not been unsatisfactory, and that he is suitable to be so licensed;

2. The applicant has submitted to fingerprinting and has provided personal descriptive information to be forwarded along with the applicant's fingerprints through the Central Criminal Records Exchange and the Federal Bureau of Investigation for the purpose of obtaining criminal history record information regarding such applicant;

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- 54 3. The applicant has paid the cost of the fingerprinting or criminal records check or both;
55 4. The judge has received a report on the applicant's record, or notification that no record exists,
56 from the Central Criminal Records Exchange;
57 5. The judge has reviewed the record of the applicant as furnished by the Federal Bureau of
58 Investigation;
59 6. The applicant provides to the issuing court collateral of \$200,000 on his bonds and \$200,000
60 on the bonds of each of his agents; and
61 7. The applicant provides to the issuing court the statement as required pursuant to
62 § 19.2-152.1:4.

63 F. Prior to the issuance of such any certificate, the judge of the circuit court may confer with the
64 judge or judges of those courts in which such bondsman the applicant seeks to act as a property bail
65 bondsman.

66 A license granted to a professional bondsman in any such county or city pursuant to § 58.1-3724
67 shall authorize such person to enter into such bonds in any other county or city, provided that upon
68 entering into any bond conditioned upon real estate, cash or certificates of deposit issued by a
69 federally insured institution, or any combination thereof as collateral in any other county or city such
70 bondsman makes affidavit that the aggregate of the penalty of such bond together with all other bonds
71 in the Commonwealth on which he has not been released from liability is not in excess of the true
72 market value of the equity in his real estate, cash or certificates of deposit issued by a federally
73 insured institution, or any combination thereof.

74 No professional bondsman shall enter into any such bond if the aggregate of the penalty of such
75 bond and all other bonds, on which he has not been released from liability, is in excess of the true
76 market value of his real estate, cash or certificates of deposit issued by a federally insured institution,
77 or any combination thereof. Each professional bondsman, if so directed by the judge of the circuit
78 court of the county or of the city in which he is licensed, shall place a deed of trust on the real estate
79 that he is using for the limit of his expected bonded indebtedness to secure the Commonwealth of
80 Virginia and shall name the attorney for the Commonwealth of the affected locality as trustee under
81 the deed of trust or shall place the requisite cash or certificates of deposit issued by a federally
82 insured institution, or any combination thereof with the court. In addition thereto, he shall furnish the
83 clerk of the appropriate court an acceptable appraisal and title certificate of the real estate subject to
84 any such deed of trust. Each professional bondsman licensed hereunder shall file with the clerk of the
85 circuit court of the county or city in which he is licensed not later than the fifth day of each month a
86 list of all outstanding bonds on which he was obligated as of the last day of the preceding month,
87 together with the amount of the penalty of each such bond.

88 No court shall certify and no revenue license shall be issued as provided in this section to a person
89 who had not obtained a certification and license prior to July 1, 1989, unless such person provides to
90 the issuing court collateral of \$200,000 on his bonds and \$200,000 on the bonds of each of his
91 agents.

92 Any professional bondsman or agent for any professional bondsman, qualified under this section,
93 shall be subject to and governed by any reasonable rules of conduct or procedure set up by the judge
94 of the court in which he is acting as a bondsman. Such rules shall include the requirement that such
95 bondsman give written notice to the clerk of the circuit court of each change in the number of agents
96 in his employ within seven days of such change and provide \$200,000 collateral for each additional
97 agent and may include a requirement that such bondsman or agent place a reasonable amount of cash
98 or negotiable instruments in escrow with the clerk of said court to be held during the time such
99 bondsman or agent is acting as a bondsman in said court, provided that said clerk is acting under a
100 bond of sufficient amount and coverage to insure protection against loss, theft, or misappropriation.
101 Upon his violation of such rules, he may, after hearing upon a charge of such violation, be suspended
102 from entering into further bonds in said court by the judge thereof. If such bondsman or agent fails to
103 have in escrow with the clerk of said court a sum sufficient to cover any forfeiture of bond against
104 him and fails or refuses to pay such forfeiture after notice and demand by the judge of the court he
105 may be suspended by such judge from entering into further bonds in said court until the forfeiture is
106 paid or it is adjudicated that he is not liable thereon.

107 No person after July 1, 1981, who has previously not been licensed shall be licensed hereunder

108 either as a professional G. A certificate shall not be issued authorizing any person to act as a
109 property bail bondsman or agent for any professional bondsman, when if such person, his or her such
110 person's spouse, or a member of his or her such person's immediate family holds any office as
111 magistrate, clerk or deputy clerk of any court.

112 Nothing in this section shall be construed to apply to guaranty, indemnity, fidelity and security
113 companies doing business in Virginia or their agents and attorneys-in-fact, under the provisions of
114 Chapter 24 (§ 38.2-2400 et seq.) of Title 38.2, except that agents and attorneys-in-fact of guaranty,
115 indemnity, fidelity and security companies entering into bonds for bail, appearances, costs or appeal in
116 eriminal cases shall be required to obtain a certificate from the judge of the circuit court in which he
117 desires to carry on the business of professional bondsman, certifying that the applicant is of good
118 moral character, that his past conduct before the courts of said county or city has not been
119 unsatisfactory and he is suitable to be a licensed bondsman. Such certificate shall authorize such
120 persons to enter into such bonds in any other county or city. Such agents and attorneys-in-fact shall
121 be subject to any reasonable rules of conduct or procedure and discipline for the violation of same as
122 may be ordered by the judge of the court in which they act for such companies. No person may act
123 as such an agent or attorney-in-fact when such person, his or her spouse, or a member of his or her
124 immediate family holds any office as magistrate, clerk or deputy clerk of any court.

125 H. Any certificate issued at any time prior to October 1, 2003, shall terminate effective October 1,
126 2003.

127 § 19.2-152.1:1. Authority of licensed property bail bondsmen to enter into bonds in other county
128 or city.

129 A license granted to a property bail bondsman in any county or city shall authorize such person to
130 enter into bonds in any other county or city, provided that, upon entering into any bond conditioned
131 upon real estate, cash or certificates of deposit issued by a federally insured institution, or any
132 combination thereof, as collateral in any other county or city, such bondsman makes affidavit that the
133 aggregate of the penalty of such bond, together with all other bonds in the Commonwealth on which
134 he has not been released from liability, is not in excess of the true market value of the equity in his
135 real estate, cash or certificates of deposit issued by a federally insured institution, or any combination
136 thereof.

137 § 19.2-152.1:2. Lists of property bail bondsmen.

138 The clerk of the circuit court shall maintain current lists of property bail bondsmen who have
139 been granted a certificate and, if required, a license authorizing them to carry on the business of
140 property bail bondsman in the courts of such clerk's city or county, and of property bail bondsmen
141 who have been authorized to carry on the business of a property bail bondsman in the courts of such
142 clerk's city or county pursuant to § 19.2-152.1:1. In addition, the clerk of the circuit court shall
143 maintain a current list of all surety bail bondsmen who have obtained a certificate authorizing them
144 to enter into bonds or otherwise to act for guaranty, indemnity, fidelity and security companies in the
145 courts of a city or county as provided in § 19.2-152.1:7.

146 § 19.2-152.1:3. Lists of bonds and penalties.

147 Each property bail bondsman shall file with the clerk of the circuit court of the originating county
148 or city in which he received his certificate, not later than the fifth day of each month, a list of all
149 outstanding bonds on which he was obligated as of the last day of the preceding month, together with
150 the amount of the penalty of each such bond. Such list shall be on a form prescribed by the Supreme
151 Court of Virginia.

152 § 19.2-152.1:4. Periodic statements of value of property bail bondsman's property.

153 A. Commencing October 1, 2003, every property bail bondsman periodically shall submit
154 statements of the value of property that he is using for the limit of his expected bonded indebtedness.
155 Such statements shall include the information required pursuant to subsection C. Statements covering
156 the 9-month period commencing October 1, 2003, shall be filed on such date, and statements covering
157 subsequent 12-month periods shall be filed on July 1 of such year. Statements shall be submitted to
158 the clerk of the circuit court for the city or county wherein he proposes to issue a bond.

159 B. No person shall engage in the business of a property bail bondsman in the Commonwealth
160 during any portion of such a period that he has not submitted a statement required by this section.
161 The judge of the circuit court that issued a certificate shall revoke or terminate a certificate issued to

162 any holder of a certificate who fails to submit periodic statements as required by this section.

163 C. The statements required by this section shall provide:

164 1. The name and business address of the property bail bondsman;

165 2. The property bail bondsman's social security number;

166 3. The names, addresses, and social security numbers of each agent of the property bail
167 bondsman;

168 4. If such property is real estate:

169 a. A true copy of the current real estate tax assessment thereof, certified by the appropriate
170 assessing officer of the locality wherein such property is located or, at the option of the property bail
171 bondsman, an appraisal of the fair market value of the real estate, which appraisal shall have been
172 prepared by a certified general real estate appraiser, as such term is defined in § 54.1-2009, within
173 one year of its submission; and

174 b. An affidavit of the property bail bondsman that states, to the best of such person's knowledge,
175 the amount due under any obligation secured by a lien or similar encumbrance against the real
176 estate, including any delinquent taxes, as of the date of its submission.

177 5. If such property consists of certificates of deposit, an affidavit of the property bail bondsman
178 that states, to the best of such person's knowledge, the amount due under any obligation secured by
179 any pledge of or security interest affecting such property;

180 6. An affidavit of the property bail bondsman that states, to the best of such person's knowledge,
181 the amount of equity in the real estate or other collateral; and

182 7. A legible copy of any of the following forms of identification card that includes the property
183 bail bondsman's photograph: United States Passport, certificate of United States citizenship,
184 certificate of naturalization, state-issued driver's license, state-issued identification card or United
185 States military card.

186 D. The clerk of the circuit court shall, upon the filing of such a statement, send a certified copy
187 thereof to the Supreme Court of Virginia.

188 E. Any person who is determined by a court to have intentionally misstated a material fact in an
189 affidavit submitted with a statement provided pursuant to this section, in addition to such criminal
190 penalties as are prescribed by law, shall be ineligible to hold a license or a certificate.

191 § 19.2-152.1:5. Limitation on bonding amounts; encumbrances on property.

192 A. No property bail bondsman shall enter into any bond if the aggregate of the penalty of such
193 bond and all other bonds, on which he has not been released from liability, is in excess of the true
194 market value of the equity in his real estate, cash or certificates of deposit issued by a federally
195 insured institution, or any combination thereof.

196 B. Each property bail bondsman, if so directed by the judge of the circuit court of the county or of
197 the city in which he is licensed, shall:

198 1. Place a deed of trust on the real estate that he is using for the limit of his expected bonded
199 indebtedness to secure the Commonwealth of Virginia and shall name the attorney for the
200 Commonwealth of the affected locality as trustee under the deed of trust, and furnish the clerk of the
201 appropriate court an acceptable appraisal and title certificate of the real estate subject to any such
202 deed of trust; or

203 2. Place the requisite cash or certificates of deposit issued by a federally insured institution, or
204 any combination thereof, with the court.

205 § 19.2-152.1:6. Rules for property bail bondsmen; effect of violation.

206 A. Each property bail bondsman or agent for a property bail bondsman shall be subject to and
207 governed by reasonable rules of conduct or procedure, which rules shall be established by the judge
208 of the court in which he is acting as a property bail bondsman.

209 B. Such rules shall require, among such other rules as are deemed appropriate, that each property
210 bail bondsman (i) gives written notice to the clerk of the circuit court of each change in the number
211 of agents in his employ within 7 days of such change and (ii) provides \$200,000 collateral for each
212 additional agent.

213 C. Such rules may also include a requirement that such bondsman or agent place a reasonable
214 amount of cash or negotiable instruments in escrow with the clerk of said court to be held during the
215 time that the property bail bondsman or agent is acting as a bondsman in said court, provided that

216 *said clerk is acting under a bond of sufficient amount and coverage to insure protection against loss,*
217 *theft, or misappropriation.*

218 *D. Upon his violation of such rules, a property bail bondsman or agent may, after hearing upon a*
219 *charge of such violation, be suspended from entering into further bonds in said court by the judge*
220 *thereof. If the property bail bondsman or agent fails to have in escrow with the clerk of said court a*
221 *sum sufficient to cover any forfeiture of bond against him and fails or refuses to pay such forfeiture*
222 *after notice and demand by the judge of the court he may be suspended by such judge from entering*
223 *into further bonds in said court until the forfeiture is paid or it is adjudicated that he is not liable*
224 *thereon.*

225 *§ 19.2-152.1:7. Application of article to surety bail bondsmen; certification required.*

226 *A. Nothing in this article shall be construed to apply to guaranty, indemnity, fidelity and security*
227 *companies doing business in this Commonwealth or their agents and attorneys-in-fact, under the*
228 *provisions of Chapter 24 (§ 38.2-2400 et seq.) of Title 38.2; however, each surety bail bondsman of a*
229 *guaranty, indemnity, fidelity and security company who enters into bonds for bail, appearances, costs*
230 *or appeal in criminal cases shall be required to obtain a certificate from the judge of the circuit*
231 *court in which he desires to carry on the business of a surety bail bondsman. Such a certificate shall*
232 *not be issued unless the judge finds that the applicant is of good moral character, that his past*
233 *conduct before the courts of said county or city has not been unsatisfactory, and that he has obtained*
234 *a license as a surety bail bondsman if required pursuant to § 38.2-1865.6. Such certificate shall*
235 *authorize such persons to enter into such bonds in any other county or city.*

236 *B. Surety bail bondsmen shall be subject to any reasonable rules of conduct or procedure and*
237 *discipline for the violation of same as may be ordered by the judge of the court in which they act for*
238 *such companies. No person shall act as a surety bail bondsman when such person, such person's*
239 *spouse, or a member of such person's immediate family holds any office as magistrate, clerk or*
240 *deputy clerk of any court.*

241 *§ 38.2-1800. Definitions.*

242 *As used in this chapter:*

243 *"Agent," "insurance agent," "producer," or "insurance producer," when used without qualification,*
244 *means an individual or business entity that sells, solicits, or negotiates contracts of insurance or*
245 *annuity in this Commonwealth.*

246 *"Appointed agent," "appointed insurance agent," "appointed producer," or "appointed insurance*
247 *producer," when used without qualification, means an individual or business entity licensed in this*
248 *Commonwealth to sell, solicit, or negotiate contracts of insurance or annuity of the classes authorized*
249 *within the scope of such license and who is appointed by a company licensed in this Commonwealth*
250 *to sell, solicit, or negotiate on its behalf contracts of insurance of the classes authorized within the*
251 *scope of such license and, if authorized by the company, may collect premiums on those contracts.*

252 *"Automobile club authority" means the authority in this Commonwealth to sell, solicit, or negotiate*
253 *automobile club contracts on behalf of automobile clubs licensed under Chapter 3.1 (§ 13.1-400.1 et*
254 *seq.) of Title 13.1.*

255 *"Business entity" means a partnership, limited partnership, limited liability company, corporation,*
256 *or other legal entity other than a sole proprietorship.*

257 *"Dental services authority" means the authority in this Commonwealth to sell, solicit, or negotiate*
258 *dental services plan contracts on behalf of dental services plans licensed under Chapter 45*
259 *(§ 38.2-4500 et seq.) of this title.*

260 *"Filed" means received by the Commission.*

261 *"Health agent" means an agent licensed in this Commonwealth to sell, solicit, or negotiate*
262 *insurance as defined in §§ 38.2-108 and 38.2-109, and including contracts issued by insurers, health*
263 *services plans, health maintenance organizations, dental services plans, and optometric services plans*
264 *licensed in this Commonwealth.*

265 *"Home protection insurance authority" means the authority in this Commonwealth to sell, solicit,*
266 *or negotiate home protection insurance as defined in § 38.2-129 on behalf of insurers licensed in this*
267 *Commonwealth.*

268 *"Home state" means the District of Columbia and any state or territory of the United States, except*
269 *Virginia, or any province of Canada, in which an insurance producer maintains such person's principal*

270 place of residence or principal place of business and is licensed by that jurisdiction to act as a
271 resident insurance producer.

272 "Legal services insurance authority" means the authority in this Commonwealth to sell, solicit, or
273 negotiate legal services insurance as defined in § 38.2-127 on behalf of insurers licensed in this
274 Commonwealth.

275 "Legal services plan authority" means the authority in this Commonwealth to sell, solicit, or
276 negotiate legal services plan contracts on behalf of legal services plans licensed under Chapter 44
277 (§ 38.2-4400 et seq.) of this title.

278 "License" means a document issued by the Commission authorizing an individual or business
279 entity to act as an insurance producer for the lines of authority specified in the document. Except as
280 provided in § 38.2-1833, the license itself does not create any authority, actual, apparent or inherent,
281 in the licensee to represent, commit, or bind an insurer.

282 "Licensed agent," "licensed insurance agent," "licensed producer," or "licensed insurance producer,"
283 when used without qualification, means an individual or business entity licensed in this
284 Commonwealth to sell, solicit, or negotiate contracts of insurance or annuity of the classes authorized
285 within the scope of such license.

286 "Life and annuities insurance agent" means an agent licensed in this Commonwealth to sell, solicit,
287 or negotiate life insurance and annuity contracts as defined in §§ 38.2-102, 38.2-103, 38.2-104,
288 38.2-105.1, 38.2-106, and 38.2-107.1, respectively, on behalf of insurers licensed in this
289 Commonwealth.

290 "Limited burial insurance authority" means the authority in this Commonwealth to sell, solicit, or
291 negotiate burial insurance society membership where the certificates of membership will not exceed
292 \$5,000 on any individual, on behalf of insurers licensed under Chapter 40 (§ 38.2-4000 et seq.) of this
293 title; or to represent an association referred to in § 38.2-3318.1, limited to soliciting members of that
294 association for burial association group life insurance certificates in amounts of \$5,000 or less.

295 "Limited lines credit insurance agent" means an agent licensed in this Commonwealth whose
296 authority is restricted to selling, soliciting, or negotiating, on behalf of insurers licensed in this
297 Commonwealth, one or more of the following coverages to individuals through a master, corporate,
298 group or individual policy: (i) credit life insurance and credit accident and sickness insurance, but
299 only to the extent authorized in Chapter 37.1 (§ 38.2-3717 et seq.) of this title; (ii) credit involuntary
300 unemployment insurance as defined in § 38.2-122.1; (iii) credit property insurance, as defined in
301 § 38.2-122.2; (iv) mortgage accident and sickness insurance; (v) mortgage redemption insurance; (vi)
302 mortgage guaranty insurance; and (vii) any other form of insurance offered in connection with an
303 extension of credit that is limited to partially or wholly extinguishing that credit obligation and that
304 the Commission specifically determines may be sold, solicited, or negotiated by those holding a
305 limited lines credit insurance agent license. Each insurer that sells, solicits or negotiates any of the
306 coverages set forth in this definition shall provide to each individual whose duties will include selling,
307 soliciting or negotiating such coverages a program of instruction that may, at the discretion of the
308 Commission, be submitted for approval by the Commission or reviewed by the Commission
309 subsequent to its implementation.

310 "Limited lines life and health agent" means an individual or business entity authorized by the
311 Commission whose license authority to sell, solicit, or negotiate is limited to the following, or any
312 other type of authority that the Commission may deem it necessary to recognize for the purposes of
313 complying with § 38.2-1836: dental services authority; legal services plan authority; limited burial
314 insurance authority; mutual assessment life and health insurance authority; optometric services
315 authority; and travel accident insurance authority. Limited lines life and health insurance shall not
316 include life insurance, health insurance, property insurance, casualty insurance, and title insurance.

317 "Limited lines property and casualty agent" means an individual or business entity authorized by
318 the Commission whose license authority to sell, solicit, or negotiate is limited to the following, or any
319 other type of authority that the Commission may deem it necessary to recognize for the purposes of
320 complying with § 38.2-1836: automobile club authority; home protection insurance authority; legal
321 services insurance authority; mutual assessment property and casualty insurance authority; ocean
322 marine insurance authority; pet accident, sickness and hospitalization insurance authority; and travel
323 baggage insurance authority. Limited lines property and casualty insurance shall not include life

324 insurance, health insurance, property insurance, casualty insurance, and title insurance.

325 "Mortgage accident and sickness insurance authority" means the authority in this Commonwealth
326 to sell, solicit, or negotiate mortgage accident and sickness insurance on behalf of insurers licensed in
327 this Commonwealth.

328 "Mortgage guaranty insurance authority" means the authority in this Commonwealth to sell, solicit,
329 or negotiate mortgage guaranty insurance on behalf of insurers licensed in this Commonwealth.

330 "Mortgage redemption insurance authority" means the authority in this Commonwealth to sell,
331 solicit, or negotiate mortgage redemption insurance on behalf of insurers licensed in this
332 Commonwealth. As used in this chapter, "mortgage redemption insurance" means a nonrenewable,
333 nonconvertible, decreasing term life insurance policy written in connection with a mortgage
334 transaction for a period of time coinciding with the term of the mortgage. The initial sum shall not
335 exceed the amount of the indebtedness outstanding at the time the insurance becomes effective,
336 rounded up to the next \$1,000.

337 "Motor vehicle rental contract enroller" means an unlicensed hourly or salaried employee of a
338 motor vehicle rental company that is in the business of providing primarily private motor vehicles to
339 the public under a rental agreement for a period of less than six months, and receives no direct or
340 indirect commission from the insurer, the renter or the vehicle rental company.

341 "Motor vehicle rental contract insurance agent" means a person who (i) is a selling agent of a
342 motor vehicle rental company that is in the business of providing primarily private passenger motor
343 vehicles to the public under a rental agreement for a period of less than six months and (ii) whose
344 license in this Commonwealth is restricted to selling, soliciting, or negotiating only the following
345 insurance coverages, and solely in connection with and incidental to the rental contract:

346 1. Personal accident insurance which provides benefits in the event of accidental death or injury
347 occurring during the rental period;

348 2. Liability coverage sold to the renter in excess of the rental company's obligations under
349 §§ 38.2-2204, 38.2-2205, or Title 46.2, as applicable;

350 3. Personal effects insurance which provides coverages for the loss of or damage to the personal
351 effects of the renter and other vehicle occupants while such personal effects are in or upon the rental
352 vehicle during the rental period;

353 4. Roadside assistance and emergency sickness protection programs; and

354 5. Other travel-related or vehicle-related insurance coverage that a motor vehicle rental company
355 offers in connection with and incidental to the rental of vehicles.

356 The term "motor vehicle rental contract insurance agent" does not include motor vehicle rental
357 contract enrollers.

358 "Mutual assessment life and health insurance authority" means the authority in this Commonwealth
359 to sell, solicit, or negotiate mutual assessment life and accident and sickness insurance on behalf of
360 insurers licensed under Chapter 39 (§ 38.2-3900 et seq.) of this title, but only to the extent permitted
361 under § 38.2-3919.

362 "Mutual assessment property and casualty insurance authority" means the authority in this
363 Commonwealth to sell, solicit, or negotiate mutual assessment property and casualty insurance on
364 behalf of insurers licensed under Chapter 25 (§ 38.2-2500 et seq.) of this title, but only to the extent
365 permitted under § 38.2-2525.

366 "NAIC" means the National Association of Insurance Commissioners.

367 "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or
368 prospective purchaser of a particular contract of insurance concerning any of the substantive benefits,
369 terms or conditions of the contract, provided that the person engaged in that act either sells insurance
370 or obtains insurance from insurers for purchasers.

371 "Ocean marine insurance authority" means the authority in this Commonwealth to sell, solicit, or
372 negotiate those classes of insurance classified in § 38.2-126, except those classes specifically classified
373 as inland marine insurance, on behalf of insurers licensed in this Commonwealth.

374 "Optometric services authority" means the authority in this Commonwealth to sell, solicit, or
375 negotiate optometric services plan contracts on behalf of optometric services plans licensed under
376 Chapter 45 (§ 38.2-4500 et seq.) of this title.

377 "Personal lines agent" means an agent licensed in this Commonwealth to sell, solicit, or negotiate

378 insurance as defined in §§ 38.2-110 through 38.2-114, 38.2-116, 38.2-117, 38.2-118, 38.2-124,
379 38.2-125, 38.2-126, 38.2-129, 38.2-130, and 38.2-131 for transactions involving insurance primarily
380 for personal, family, or household needs rather than for business or professional needs.

381 "Pet accident, sickness and hospitalization insurance authority" means the authority in this
382 Commonwealth to sell, solicit, or negotiate pet accident, sickness and hospitalization insurance on
383 behalf of insurers licensed in this Commonwealth.

384 "Property and casualty insurance agent" means an agent licensed in this Commonwealth to sell,
385 solicit, or negotiate both personal and commercial lines of insurance as defined in §§ 38.2-110
386 through 38.2-122.2, and §§ 38.2-124 through 38.2-134 on behalf of insurers licensed in this
387 Commonwealth.

388 "Resident" means (i) an individual residing in Virginia; (ii) an individual residing outside of
389 Virginia whose principal place of business is in Virginia, who is able to demonstrate to the
390 satisfaction of the Commission that the laws of his home state prevent him from obtaining a resident
391 agent license in that state, and who affirmatively chooses to qualify as and be treated as a resident of
392 Virginia for purposes of licensing and continuing education, both in Virginia and in the state in which
393 the individual resides, if applicable; (iii) a partnership duly formed and recorded in Virginia; (iv) a
394 corporation incorporated and existing under the laws of Virginia; (v) a limited liability company
395 organized and existing under the laws of Virginia; or (vi) a foreign business entity that is not licensed
396 as a resident agent in any other jurisdiction, and that demonstrates to the satisfaction of the
397 Commission that its principal place of business is within the Commonwealth of Virginia.

398 "Restricted nonresident health agent" means a nonresident agent whose license authority in his
399 home state does not include all of the authority granted under a health agent license in Virginia. The
400 license issued to such agent shall authorize the agent to sell, solicit, or negotiate in Virginia, on behalf
401 of insurers licensed in Virginia, only those kinds or classes of insurance for which the agent is
402 authorized in his home state.

403 "Restricted nonresident life and annuities agent" means a nonresident agent whose license authority
404 in his home state does not include all of the authority granted under a life and annuities agent license
405 in Virginia. The license issued to such agent shall authorize the agent to sell, solicit, or negotiate in
406 Virginia, on behalf of insurers licensed in Virginia, only those kinds or classes of insurance for which
407 the agent is authorized in his home state.

408 "Restricted nonresident personal lines agent" means a nonresident agent whose license authority in
409 his home state does not include all of the authority granted under a personal lines agent license in
410 Virginia. The license issued to such agent shall authorize the agent to sell, solicit, or negotiate in
411 Virginia, on behalf of insurers licensed in Virginia, only those kinds or classes of insurance for which
412 the agent is authorized in his home state.

413 "Restricted nonresident property and casualty agent" means a nonresident agent whose license
414 authority in his home state does not include all of the authority granted under a property and casualty
415 agent license in Virginia. The license issued to such agent shall authorize the agent to sell, solicit, or
416 negotiate in Virginia, on behalf of insurers licensed in Virginia, only those kinds or classes of
417 insurance for which the agent is authorized in his home state.

418 "Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on
419 behalf of an insurer.

420 "Settlement agent" means a person licensed as a title insurance agent and registered with the
421 Virginia State Bar pursuant to Chapter 1.3 (§ 6.1-2.19 et seq.) of Title 6.1.

422 "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular
423 class of insurance from one or more insurers.

424 "Surety bail bondsman" means a person licensed pursuant to Article 6.2 (§ 38.2-1865.6 et seq.) of
425 this chapter who sells, solicits, or negotiates surety insurance as defined in § 38.2-121 on behalf of
426 insurers licensed in this Commonwealth, pursuant to which the insurer becomes surety on or
427 guarantees a bond, as defined in § 19.2-119, that has been posted to assure performance of terms and
428 conditions specified by order of an appropriate judicial officer as a condition of bail.

429 "Surplus lines broker" means a person licensed pursuant to Article 5.1 (§ 38.2-1857.1 et seq.) of
430 this chapter, and who is thereby authorized to engage in the activities set forth in Chapter 48
431 (§ 38.2-4800 et seq.) of this title.

432 "Terminate" means the cancellation of the relationship between an insurance producer and the
433 insurer, or the termination of an insurance producer's authority to transact insurance.

434 "Title insurance agent" means an agent licensed in this Commonwealth to sell, solicit, or negotiate
435 title insurance, and performing all of the services set forth in § 38.2-4601.1, on behalf of title
436 insurance companies licensed under Chapter 46 (§ 38.2-4600 et seq.) of this title.

437 "Travel accident insurance authority" means the authority in this Commonwealth to sell, solicit, or
438 negotiate travel accident insurance to individuals on behalf of insurers licensed in this Commonwealth.

439 "Travel baggage insurance authority" means the authority in this Commonwealth to sell, solicit, or
440 negotiate travel baggage insurance to individuals on behalf of insurers licensed in this Commonwealth.

441 "Variable contract agent" means an agent licensed in this Commonwealth to sell, solicit, or
442 negotiate variable life insurance and variable annuity contracts on behalf of insurers licensed in this
443 Commonwealth.

444 "Viatical settlement broker" means a person licensed pursuant to Article 6.1 (§ 38.2-1865.1 et seq.)
445 of this chapter, and who is thereby authorized to engage in the activities set forth in Chapter 57
446 (§ 38.2-5700 et seq.) of this title.

447 "Uniform Business Entity Application" means the current version of the NAIC Uniform Business
448 Entity Application for resident and nonresident business entities.

449 "Uniform Application" means the current version of the NAIC Uniform Application for resident
450 and nonresident producer licensing.

451 § 38.2-1824. Kinds of agents' licenses and appointments issued.

452 A. 1. The Commission shall issue the following kinds of agents' licenses and appointments under
453 this chapter: Life and annuities insurance agent; health agent; property and casualty insurance agent;
454 *surety bail bondsman*; personal lines agent; limited lines credit insurance agent; limited lines life and
455 health insurance agent; limited lines property and casualty insurance agent; motor vehicle rental
456 contract insurance agent; restricted nonresident life and annuities insurance agent; restricted
457 nonresident health agent; restricted nonresident property and casualty insurance agent; restricted
458 nonresident personal lines agent; surplus lines broker; title insurance agent; variable contract agent;
459 and viatical settlement broker. For the purposes of nonresident reciprocal licensing as provided in
460 § 38.2-1836, the Commission may issue a license for any other limited line of insurance that the
461 Commission may deem it necessary to recognize.

462 2. The Commission shall permit insurers, within each insurer's authority, to make the following
463 kinds of appointments: life and health insurance, property and casualty insurance, and title insurance.
464 The appointed agent's authority is limited to that provided by his license and may not be expanded by
465 his appointment or by his contractual agreement with an insurer.

466 B. The licenses of all individuals and business entities who on August 31, 2002, hold limited
467 licenses to write accident and sickness insurance, or automobile insurance, or casualty insurance, or
468 fidelity and surety bonds, or fire insurance, or life insurance and annuities, shall have such licenses
469 automatically converted to the nearest equivalent license type provided in subsection A, and shall
470 henceforth be subject to all prelicensing and continuing education requirements applicable to such new
471 license type.

472 C. All individuals and business entities who on July 1, 1999, held limited licenses to write bail
473 (appearance) bonds may remain licensed under such limited licenses *until September 1, 2003*, but no
474 such license which has lapsed or been revoked shall be reinstated, and no new or additional licenses
475 of such type shall be issued. *All such limited licenses shall terminate effective September 1, 2003.*

476 D. All individuals and business entities who on August 31, 2002, hold any of the restricted
477 licenses discontinued effective September 1, 2002, shall have any such licenses converted to the
478 appropriate limited lines license or licenses effective September 1, 2002.

479 *Article 6.2.*

480 *Licensing of Surety Bail Bondsmen.*

481 § 38.2-1865.6. *Property and casualty insurance agents licensed as surety bail bondsmen.*

482 A. *The Commission may issue a surety bail bondsman license to any individual or business entity*
483 *actively licensed as a property and casualty insurance agent in this Commonwealth for the purposes*
484 *set forth in § 38.2-1800. The license issued to a surety bail bondsman pursuant to this article shall*
485 *terminate immediately upon the termination of the licensee's property and casualty insurance agent*

486 license, and may not be applied for again until the individual has been issued a new property and
487 casualty insurance agent license.

488 B. No person shall act as a surety bail bondsman in this Commonwealth unless such person has
489 obtained a license as a surety bail bondsman pursuant to this article.

490 C. The Commission shall maintain a database from which it may access pertinent information
491 regarding surety bail bondsman licensees.

492 § 38.2-1865.7. Applications for surety bail bondsman licenses.

493 A. Every original applicant for a surety bail bondsman license shall apply for such license in a
494 form and manner prescribed by the Commission, and containing any information the Commission
495 requires.

496 B. Prior to issuance of a license, the applicant shall:

497 1. File with the Commission an application for such license on the form and in the manner
498 prescribed by the Commission;

499 2. Pass a written prelicensing examination for the surety bail bondsman license as prescribed in
500 § 38.2-1817;

501 3. Submit to fingerprinting by any local or state law-enforcement agency and provide personal
502 descriptive information to be forwarded, along with the applicant's fingerprints, to the Department of
503 State Police's Central Criminal Records Exchange in order for the applicant to receive a copy of his
504 own criminal history record information from the Central Criminal Records Exchange pursuant to
505 subdivision A 11 of § 19.2-389. The Central Criminal Records Exchange shall forward the applicant's
506 fingerprints and personal descriptive information to the Federal Bureau of Investigation for the
507 purpose of obtaining national criminal history record information regarding such applicant. The
508 applicant shall pay for the cost of such fingerprinting and criminal records check. If the report
509 indicates a prior felony conviction, the individual shall be prohibited from pursuing the application
510 process for issuance of a surety bail bondsman license unless the applicant is able to submit proof
511 that his civil rights have been restored by the Governor or other appropriate authority. If the report
512 confirms that the individual has no record of a prior felony conviction in the Commonwealth or
513 elsewhere, the applicant shall submit the original copy of such report to the Commission as part of
514 the application process;

515 4. Submit copies of each power of attorney that is required to be recorded pursuant to
516 § 38.2-2416; and

517 5. Submit the appropriate nonrefundable application processing fee to the Commission, as
518 provided in § 38.2-1865.9.

519 C. A business entity acting as a surety bail bondsman is required to obtain a surety bail
520 bondsman license. In addition to the other requirements in this section, and before approving the
521 application, the Commission shall find that:

522 1. The business entity has paid the appropriate nonrefundable application processing fee to the
523 Commission, as provided in § 38.2-1865.9;

524 2. The business entity has filed the appropriate documents, as follows:

525 a. A domestic corporation shall have filed its articles of incorporation with the clerk of the
526 Commission, and shall have been issued a charter by the Commission;

527 b. A domestic limited liability company shall have filed its articles of organization with the clerk
528 of the Commission, and shall have been issued a certificate of organization by the Commission;

529 c. A domestic limited partnership shall have applied for and received a certificate of limited
530 partnership from the clerk of the Commission; and

531 d. A domestic partnership shall have filed its partnership agreement with the clerk of the
532 appropriate court; and

533 3. The business entity has designated a licensed Virginia Surety Bail Bondsman to be responsible
534 for the business entity's compliance with the insurance laws, rules and regulations of this
535 Commonwealth.

536 D. The Commission may require any documents reasonably necessary to verify the information
537 contained in an application.

538 § 38.2-1865.8. Term of licenses; renewal.

539 A. Every license issued pursuant to this article shall be for a term of up to 2 years, expiring on

540 *the second June 30 following the date of its issuance.*

541 *B. A surety bail bondsman license may be renewed for an ensuing 2-year period, upon the filing*
542 *of an application in the form prescribed by the Commission and payment of the nonrefundable*
543 *renewal application processing fee prescribed in § 38.2-1865.9. In addition, applicants for renewal of*
544 *a surety bail bondsman license shall obtain an updated copy, no more than 60 days old at the time of*
545 *application for renewal, of the document described in subdivision B 3 of § 38.2-1865.7 from the*
546 *Department of State Police, indicating that the applicant for license renewal has not been convicted*
547 *of a felony during the period since the license was first issued or last renewed.*

548 *C. A licensee whose license as a surety bail bondsman is revoked, suspended or otherwise*
549 *terminated or nonrenewed shall be required to satisfy all pre-licensing requirements set forth in*
550 *§ 38.2-1865.7 before a new surety bail bondsman license may be issued by the Commission.*

551 *§ 38.2-1865.9. Fees for surety bail bondsman license.*

552 *A. The Commission shall provide for the collection of fees for licensure issuance and renewal that*
553 *are sufficient to cover all expenses for the administration and operation of the licensure program*
554 *established by this article.*

555 *B. On or before June 1 of each renewal year, the licensee shall make application for license*
556 *renewal and shall at that time pay a nonrefundable renewal application processing fee determined as*
557 *provided in subsection A.*

558 *C. All renewals shall take effect on July 1. Any license not renewed by June 30 of the renewal*
559 *year shall terminate effective July 1 of that year.*

560 *D. All fees shall be collected by the Commission and paid into the state treasury to the credit of*
561 *the fund for the maintenance of the Bureau of Insurance as provided in subsection B of § 38.2-400.*

562 *§ 38.2-1865.10. Requirement to report to Commission.*

563 *A. Each licensed surety bail bondsman shall report within 30 calendar days to the Commission*
564 *any change in his residence or name.*

565 *B. In addition to the requirements of §§ 59.1-69 and 59.1-70, any individual or business entity*
566 *licensed as a surety bail bondsman in this Commonwealth and operating under an assumed or*
567 *fictitious name shall notify the Commission, at the earlier of the time the application for a surety bail*
568 *bondsman license is filed or within 30 calendar days from the date the assumed or fictitious name is*
569 *adopted, setting forth the name under which the surety bail bondsman intends to operate in Virginia.*
570 *The Commission shall also be notified within 30 calendar days from the date of cessation of the use*
571 *of such assumed or fictitious name.*

572 *C. Each licensed surety bail bondsman convicted of a felony shall report within 30 calendar days*
573 *to the Commission the facts and circumstances regarding the criminal conviction.*

574 *D. Each licensed surety bail bondsman shall report to the Commission within 30 calendar days of*
575 *the final disposition of the matter any administrative action taken against him in another jurisdiction*
576 *or by another governmental agency in this Commonwealth. Such report shall include a copy of the*
577 *order, consent to order or other relevant legal documents.*

578 *E. The license authority of any business entity licensed as a surety bail bondsman shall terminate*
579 *immediately if the sole licensed responsible producer designated pursuant to subdivision D 3 of*
580 *§ 38.2-1857.2 for the business entity's compliance with the insurance laws, rules and regulations of*
581 *this Commonwealth is removed for any reason, and a new responsible producer has not been*
582 *appointed and the Commission notified within 30 calendar days of such removal and of the newly*
583 *designated responsible producer.*

584 *§ 38.2-1865.11. Grounds for placing on probation, refusal to issue or renew, revocation, or*
585 *suspension of license.*

586 *A. The Commission shall, in addition to or in lieu of a penalty imposed under § 38.2-218, revoke*
587 *or refuse to issue, reissue or renew any surety bail bondsman's license for any one or more of the*
588 *following causes:*

589 *1. Providing materially incorrect, misleading, incomplete or untrue information in the license*
590 *application or any other document filed with the Commission;*

591 *2. Violating any insurance laws, or violating any regulation, subpoena or order of the Commission*
592 *or of another state's insurance regulatory authority;*

593 *3. Obtaining or attempting to obtain a license through misrepresentation or fraud;*

- 594 4. Engaging in the practice of rebating;
- 595 5. Engaging in twisting or any form thereof, where "twisting" means inducing an insured to
596 terminate an existing policy and purchase a new policy through misrepresentation;
- 597 6. Improperly withholding, misappropriating or converting any moneys or properties received in
598 the course of doing business;
- 599 7. Intentionally misrepresenting the terms of an actual or proposed insurance contract or
600 application for insurance;
- 601 8. Having admitted or been found to have committed any insurance unfair trade practice or fraud;
- 602 9. Having been convicted of a felony;
- 603 10. Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, or
604 untrustworthiness in the conduct of business in this Commonwealth or elsewhere, or demonstrating
605 financial irresponsibility in the handling of applicant, policyholder, agency, or insurance company
606 funds;
- 607 11. Forging another's name to an application for insurance or to any document related to an
608 insurance transaction;
- 609 12. Improperly using notes or any other reference material to complete an examination for an
610 insurance license; or
- 611 13. Knowingly accepting insurance business from an individual who is not licensed.
- 612 B. The Commission may, in addition to or in lieu of a penalty imposed under § 38.2-218, place on
613 probation, suspend, revoke or refuse to issue, reissue or renew any individual's surety bail bondsman
614 license for any one or more of the following causes:
- 615 1. Having an insurance producer, surplus lines broker, or consultant license, or its equivalent,
616 denied, suspended or revoked in any other state, province, district or territory;
- 617 2. Failing to comply with an administrative or court order imposing a child support obligation; or
- 618 3. Failing to pay state income tax or comply with any administrative or court order directing
619 payment of state income tax.
- 620 § 38.2-1865.12. Refusal to issue and revocation of license; hearing; new application.
- 621 A. Any refusal by the Commission to issue a surety bail bondsman's license to an applicant
622 pursuant to this article shall be subject to the right of the applicant to demand a hearing on the
623 application. If the Commission refuses to issue a new license, it shall give the applicant or licensee at
624 least 10 calendar days' notice in writing of the time and place of the hearing, if a hearing is
625 requested. The notice shall contain a statement of the objections to the issuance of the license as the
626 case may be. Notice of the hearing may be given to the applicant by registered or certified mail, sent
627 to the last known address of record pursuant to subsection A of 38.2-1857.5, or the last known
628 business address if the address of record is incorrect, or in any other lawful manner the Commission
629 prescribes. The Commission may summon witnesses to testify with respect to the applicant, and the
630 applicant may introduce evidence in his or its behalf. No applicant to whom a license is refused after
631 a hearing shall again apply for a license until the expiration of a period of 5 years from the date of
632 the Commission's order, or such other period of time as the Commission prescribes in its order.
- 633 B. The Commission shall not revoke or suspend an existing license until the licensee is given an
634 opportunity to be heard before the Commission. The Commission shall give the applicant or licensee
635 at least 10 calendar days' notice in writing of the time and place of the hearing on a revocation or
636 suspension, if a hearing is requested. The notice shall contain a statement of the reason for its
637 proposed revocation or suspension as the case may be. Notice of the hearing may be given to the
638 licensee by registered or certified mail, sent to the last known address of record pursuant to
639 subsection A of 38.2-1857.5, or the last known business address if the address of record is incorrect,
640 or in any other lawful manner the Commission prescribes. The Commission may summon witnesses to
641 testify with respect to the licensee, and the licensee may introduce evidence in his or its behalf. No
642 licensee whose license is revoked shall again apply for a license until the expiration of a period of 5
643 years from the date of the Commission's order, or such other period of time as the Commission
644 prescribes in its order.
- 645 C. However, upon receipt of documentation from a court or state or federal agency that a licensee
646 has been convicted of a felony, the Commission, without a hearing or prior notice to the licensee,
647 may immediately suspend such person's license, in which event the Commission shall immediately give

648 notice to such person of the suspension and of the time and place of a hearing on the suspension.
649 Such suspension shall remain in force until the hearing is held. The hearing shall be held within 10
650 days following the suspension of the license. The notice shall include a copy of the documentation
651 from such court or agency, certified by the Commission as the documentation received from such
652 court or agency.

653 D. The license of a business entity may be suspended, revoked or refused if the Commission finds,
654 after notice and an opportunity to be heard, that a violation by an individual licensee acting at the
655 direction of, on behalf of, or with the permission of the business entity was known to be a violation
656 by one or more of the partners, officers or managers acting on behalf of the business entity, and the
657 violation was neither reported to the Commission nor corrective action taken.

658 E. In addition to or in lieu of any applicable denial, suspension or revocation of a license, a
659 person may, after notice and an opportunity to be heard, be subject to a penalty pursuant to
660 § 38.2-218.

661 F. The Commission shall retain the authority to enforce the provisions of and impose any penalty
662 or remedy authorized by this title against any person who is under investigation for or charged with
663 a violation of this title, even if the person's license or registration has been surrendered, terminated,
664 suspended, revoked, or has lapsed by operation of law.

665 § 38.2-1865.13. Licensing nonresidents; clerk of the Commission to be appointed agent for service
666 of process; reciprocal agreements with other states and Canadian provinces.

667 A. An individual or business entity who is not a resident as defined in § 38.2-1800, but who is a
668 resident of another state, territory, or province of Canada, shall receive a nonresident surety bail
669 bondsman license if:

670 1. The applicant presents proof in a form acceptable to the Commission that the applicant is
671 currently licensed or otherwise authorized as a resident surety bail bondsman and is in good standing
672 in his home state;

673 2. The applicant has submitted the proper application for licensure, or in lieu thereof has
674 submitted a copy of the application for a surety bail bondsman license submitted to the home state,
675 and has paid the fees required by § 38.2-1857.3;

676 3. The applicant's home state issues nonresident surety bail bondsman licenses to residents of this
677 Commonwealth on the same basis, or will permit a resident of this Commonwealth to act as a surety
678 bail bondsman in such state without requiring a license; and

679 4. The applicant, if a corporation, limited liability company, or limited partnership, has obtained
680 from the clerk of the Commission a certificate of authority, certificate of registration, or certificate of
681 limited partnership, respectively.

682 B. For the purposes of this chapter, any individual whose place of residence and place of business
683 are in a city or town located partly within the Commonwealth and partly within another state may be
684 considered as meeting the requirements as a resident of this Commonwealth, provided the other state
685 has established by law or regulation similar requirements as to residence of such individuals.

686 C. The Commission may enter into a reciprocal agreement with an appropriate official of any
687 other state or province of Canada if such an agreement is required in order for a Virginia resident to
688 be similarly licensed as a nonresident in that state or province.

689 D. A nonresident surety bail bondsman who moves from one state or province to another state or
690 province shall file a change of address and provide a certification from the new home state or
691 province within 30 calendar days of the change of legal residence. No fee or license application is
692 required.

693 E. Any licenses issued to nonresidents pursuant to this section shall be terminated at any time that
694 the nonresident's equivalent authority in his home state is terminated, suspended, or revoked.

695 F. A license or other authorization issued by another state or province shall not be deemed to
696 authorize an applicant to be a resident surety bail bondsman in his home state unless (i) the issuing
697 authority, as a condition to issuing such a license or authorization, requires the submission of a
698 report of national criminal history record information regarding such applicant and (ii) such report
699 does not indicate that the applicant has been convicted of a felony in any jurisdiction.

700 § 38.2-2411. Furnishing court clerks with information as to licensed insurers.

701 In April of each year the Commission shall furnish the Clerk of the Supreme Court of Virginia

702 and the clerk of every circuit court in this Commonwealth a list of the names of all fidelity and surety
 703 insurers in this Commonwealth, together with a statement of the assets and liabilities of each of the
 704 insurers, and of all surety bail bondsmen licensed pursuant to Article 6.2 (§ 38.2-1865.6 et seq.) of
 705 Chapter 18 of this title who are appointed agents of such insurers. Each clerk shall file the list in his
 706 office.

707 § 38.2-2412. Notice to clerks of revocation of an insurer's license.

708 Whenever the Commission revokes or suspends the license of any fidelity and surety insurer or
 709 any surety bail bondsman licensed pursuant to Article 6.2 (§ 38.2-1865.6 et seq.) of Chapter 18 of
 710 this title, it shall immediately give notice of the revocation to the Clerk of the Supreme Court of
 711 Virginia and each circuit court in this Commonwealth.

712 § 58.1-3724. Bondsmen.

713 A. As used in this section, "professional bondsman" means a person who is a property bail
 714 bondsman, as such term is defined in § 19.2-152.1.

715 B. The governing body of any county or city may by ordinance require that every person who
 716 shall, for compensation, enter into any bond or bonds for others, whether as a principal or surety,
 717 shall obtain a revenue license, the amount of which shall be prescribed in such ordinance; and no
 718 such. No professional bondsman or his agent shall enter into any such bond or bonds in any such
 719 county or city until he shall have obtained such license.

720 C. With the exception of any bondsman or his agent who has heretofore obtained a certificate and
 721 license under this section and whose certificate, license and right to act as a bondsman continues to
 722 remain in full force and effect, no such license shall be issued by the authorities of any such county
 723 or city unless and until the applicant shall have first obtained a certificate from the judge of the
 724 circuit court of the county or city, in which he desires to carry on the business of professional
 725 bondsman as provided in Article 4 (§ 19.2-152.1) of Chapter 9 of Title 19.2. A license granted to a
 726 professional bondsman in any such county or city shall authorize such person to enter into such bonds
 727 in any other county or city.

728 D. Any ordinance enacted pursuant to the provisions of this section may provide for revocation of
 729 licenses for failure to comply with the terms of such ordinance and may in addition prescribe
 730 penalties for violations thereof.

731 2. That the provisions of this act that amend the Code of Virginia by adding in Chapter 18 of
 732 Title 38.2 an article numbered 6.2, consisting of sections numbered 38.2-1865.6 through
 733 38.2-1865.12, shall become effective on September 1, 2003.

Official Use By Clerks			
Passed By		Passed By The Senate	
The House of Delegates		with amendment	<input type="checkbox"/>
with amendment	<input type="checkbox"/>	substitute	<input type="checkbox"/>
substitute	<input type="checkbox"/>	substitute w/amdt	<input type="checkbox"/>
substitute w/amdt	<input type="checkbox"/>		
Date: _____		Date: _____	
_____ Clerk of the House of Delegates		_____ Clerk of the Senate	

