

ASSEMBLY, No. 3440

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 25, 2020

Sponsored by:

Assemblyman RONALD S. DANCER

District 12 (Burlington, Middlesex, Monmouth and Ocean)

SYNOPSIS

Transfers authority to regulate bail agents from DOBI to DLPS; establishes Bail Agent Enforcement Unit, per SCI recommendations.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning bail bond agents and agencies and
2 supplementing and amending P.L.2003, c.202.

3

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

6

7 1. (New section) All of the functions, powers, and duties
8 pertaining to the licensing and oversight of bail agents or agencies
9 as defined in section 1 of P.L.2003, c.202 (C.17:31-10), except as
10 otherwise provided, are transferred to the Department of Law and
11 Public Safety and shall be exercised by the Bail Agent Enforcement
12 Unit established pursuant to section 2 of P.L. , c. (C.)
13 (pending before the Legislature as this bill). All records,
14 equipment, and other personal property, appropriations, and any
15 unexpended balances of funds appropriated or otherwise available
16 to the Department of Banking and Insurance pertaining to the
17 licensure and oversight of bail agents and agencies subject to the
18 provisions of this act shall be transferred to the Bail Agent
19 Enforcement Unit in the Department of Law and Public Safety
20 pursuant to the "State Agency Transfer Act," P.L.1971, c.375
21 (C.52:14D-1 et seq.).

22

23 2. (New section) a. The Attorney General shall establish and
24 maintain a Bail Agent Enforcement Unit within the Department of
25 Law and Public Safety which shall be responsible for the licensing
26 and oversight of bail agents or agencies as defined in section 1 of
27 P.L.2003, c.202 (C.17:31-10).

28 b. The Bail Agent Enforcement Unit shall be empowered to
29 ensure that the methods of operation of bail agents or agencies are
30 conducted in accordance with current law and shall be authorized to
31 investigate whether a bail agent or agency has engaged in, or is
32 engaging in, any criminal act or offense under Title 2C of the New
33 Jersey Statutes or Title 17 the Revised Statutes. In carrying out its
34 functions and duties under this act, the Bail Agent Enforcement
35 Unit shall be authorized to:

36 (1) inspect any premises of any bail agency operating in this
37 State and examine any record, book, computer, electronic database,
38 recording device, document, account, paper or other tangible thing,
39 without prior notification, in connection with any investigation;

40 (2) seize and impound any record, book, computer, electronic
41 database, recording device, document, account, paper or other
42 tangible thing in connection with any investigation;

43 (3) work in coordination with the Superintendent of State Police
44 to facilitate the arrest of any bail agent who engages in illegal
45 activity; and

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is
not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 (4) work in coordination with the Commissioner of Banking and
2 Insurance to ensure that each bail agent or agency is complying
3 with all laws relative to the negotiation, solicitation or sale of bail
4 bonds in this State.

5 c. The Bail Agent Enforcement Unit established under this
6 section shall be supervised by a chief of staff appointed by the
7 Attorney General and shall employ field investigators and
8 administrative staff to assist in the enforcement of subsection b. of
9 this section.

10
11 3. (New section) a. Following the effective date of this act,
12 the Department of Banking and Insurance shall cease issuing
13 licenses to bail bond agents and all licenses and enforcement of
14 licensing requirements shall be conducted by the Bail Agent
15 Enforcement Unit in accordance with P.L. , c. (C.) (pending
16 before the Legislature as this bill). A license shall be issued to an
17 applicant who:

18 (1) consents to criminal history record background check to be
19 performed. The Bail Agent Enforcement Unit is authorized to
20 exchange fingerprint data with and receive criminal history record
21 information from the State Bureau of Identification in the Division
22 of State Police and the Federal Bureau of Investigation consistent
23 with applicable State and federal laws, rules, and regulations. The
24 applicant shall bear the cost for the criminal history record
25 background check, including all costs of administering and
26 processing the check. The Division of State Police shall promptly
27 notify the Bail Agent Enforcement Unit in the event a current or
28 prospective licensee, who was the subject of a criminal history
29 record background check pursuant to this section, is arrested for a
30 crime or offense in this State after the date the background check
31 was performed;

32 (2) satisfactorily completes a training program approved by the
33 Attorney General, which shall include, but not be limited to,
34 instruction in arrest, search and seizure, and criminal law;

35 (3) successfully completes a written competency examination
36 approved by the Attorney General; and

37 (4) complies with any further information that the Attorney
38 General may require by regulation of the applicant.

39 b. The Bail Agent Enforcement Unit may deny the issuance of
40 a license on the basis of the criminal history background check or
41 failure to comply with the requirements set forth under subsection
42 a. of this section. The denial of licensure as a bail enforcement
43 agent under this section shall be reviewable by administrative
44 adjudication as set forth in the "Administrative Procedure Act,"
45 P.L.1968, c.410 (C.52:14B-1 et seq.).

46
47 4. Section 1 of P.L.2003, c.202 (C.17:31-10) is amended to
48 read as follows:

1 1. As used in this act:

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

7 **["Commissioner"** means the Commissioner of Banking and
8 Insurance.]

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

11 (cf: P.L.2003, c.202, s.1)

12

13 5. Section 2 of P.L.2003, c.202 (C.17:31-11) is amended to
14 read as follows:

15 2. a. Upon receipt of a certification from the Clerk of the
16 Superior Court stating that a bail agent or agency has failed to
17 provide full, accurate and truthful information to the Clerk of the
18 Superior Court as required by section 4 of **[this act]** P.L.2003,
19 c.202, or has failed to satisfy a judgment or judgments for forfeited
20 bail, the **[commissioner]** Attorney General shall notify the bail
21 agent or agency that its authority to negotiate, solicit or sell bail
22 bonds, or be affiliated in any manner with the execution of bail
23 bonds in this State shall be temporarily suspended. Upon receipt of
24 a certification from the Clerk of the Superior Court that a surety
25 company has failed to register or provide full, accurate and truthful
26 information to the Clerk of the Superior Court, as required by
27 section 4 of **[this act]** P.L.2003, c.202 or has failed to satisfy a
28 judgment for forfeited bail, the **[commissioner]** Attorney General
29 may temporarily suspend the surety company's authority to
30 negotiate, solicit or sell bail bonds, or be affiliated in any manner
31 with the execution of bail bonds in this State. The temporary
32 suspensions imposed in accordance with this section shall remain in
33 effect until the Clerk of the Superior Court notifies the
34 **[commissioner]** Attorney General that the surety company or bail
35 agent or agency has properly registered and has provided
36 information in accordance with section 4 of **[this act]** P.L.2003,
37 c.202 or has satisfied the judgment or judgments for forfeited bail.

38 b. In addition to any temporary suspension imposed pursuant to
39 subsection a. of this section, the **[commissioner]** Attorney General,
40 after notice and an opportunity for a hearing, shall impose a fine
41 against the surety company, bail agent or agency in an amount of up
42 to \$10,000 for a first violation, up to \$25,000 for a second violation
43 and up to \$100,000 for a third or subsequent violation for failure to
44 register or provide full, accurate and truthful information to the
45 Clerk of the Superior Court, as required by section 4 of **[this act]**
46 P.L.2003, c.202 or for failure to satisfy a judgment or judgments for
47 forfeited bail.

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

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

13 (cf: P.L.2003, c.202, s.2)

14
15 6. Section 6 of P.L.2003, c.202 (C.17:31-15) is amended to
16 read as follows:

17 6. The **【commissioner】** Attorney General may promulgate
18 rules and regulations in accordance with the provisions of the
19 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
20 seq.), necessary to effectuate the purposes of **【this act】** P.L.2003,
21 c.202 (C.17:31-10 et seq.) and sections 1 through 3 of P.L. _____,
22 c. (C. _____) (pending before the Legislature as this bill).

23 (cf: P.L.2003, c.202, s.6)

24
25 7. This act shall take effect on the first day of the seventh
26 month following enactment except the Attorney General may take
27 any anticipatory administrative action in advance as shall be
28 necessary for the implementation of this act.

31 STATEMENT

32
33 This bill establishes the Bail Agent Enforcement Unit within the
34 Department of Law and Public Safety. The bill transfers the all of
35 the functions, powers, and duties pertaining to the licensing and
36 oversight of bail agents or agencies from the Department of
37 Banking and Insurance (DOBI) to the Department of Law and
38 Public Safety. The transfer would be subject to the provisions of
39 the "State Agency Transfer Act," P.L.1971, c.375 (C.52:14D-1 et
40 seq.).

41 Under the provisions of the bill, the Bail Agent Enforcement
42 Unit is responsible for the licensing and oversight of bail agents or
43 agencies. The Bail Agent Enforcement Unit is to be supervised by
44 a chief of staff appointed by the Attorney General and is to employ
45 field investigators and administrative staff to carry out the functions
46 of the unit. The bill authorizes the unit to ensure bail agents or
47 agencies operate in accordance with current law. The unit also is
48 required to investigate whether a bail agent or agency has

1 committed criminal acts or offenses. In carrying out its functions
2 and duties, the unit is authorized to inspect the premises of any bail
3 agency and seize and impound certain records in connection with an
4 investigation. The bill further authorizes the unit to work in
5 coordination with the Superintendent of State Police to facilitate the
6 arrest of any bail agent who engages in illegal activity. The unit is
7 further directed to work in coordination with the Commissioner of
8 DOBI to ensure that each bail agent and agency is complying with
9 all of the laws relative to the negotiation, solicitation or sale of bail
10 bonds in this State.

11 The bill also requires the Attorney General to issue a bail
12 enforcement license to any bail agent who meets certain criteria.
13 In addition to completing a training course and passing a written
14 competency exam, applicants for a license must undergo a criminal
15 history record background check. The Attorney General is given the
16 authority to revoke the license of a bail enforcement agent under
17 certain conditions.

18 Finally, the bill transfers certain statutorily established functions
19 from the Commissioner of DOBI to the Attorney General. Under
20 current law, the Commissioner of DOBI may impose monetary fines
21 and a temporary suspension of the authority of the surety company,
22 bail agent or agency to negotiate, solicit or sell bail bonds, or be
23 affiliated in any manner with the execution of bail bonds in this State.
24 Under the bill, these functions are transferred to the Attorney General.

25 This bill implements a recommendation by the State of New
26 Jersey Commission of Investigation in its May 2014 report entitled,
27 “Inside Out: Questionable and Abusive Practices in New Jersey’s
28 Bail-Bond Industry.”