WEST VIRGINIA CODE CHAPTER 51 ARTICLE 10

WV Legislature

§51-10-1. Definitions.

When used in this article:

"Approved securities" means cash, irrevocable letter of credit, bond issued by an insurance company licensed and in good standing in this state, or qualified power of attorney issued by an insurer pursuant to a producer underwriting agreement, or real estate located in this state that is unencumbered in, at least, the amount of minimum financial responsibility required as set forth by the insurance commissioner: *Provided*, That a pledge of real estate by a bondsman as an approved security is not permitted after July 1, 2024: *Provided, however*, That a bondsman who is licensed by the commissioner as of July 1, 2024, and has pledged real estate as security to conduct bonding business may continue to pledge real estate to operate as a bondsman until his or her license is voluntarily surrendered or revoked by the commissioner;

“Bonding business” means the business of becoming surety for compensation upon bonds in criminal cases in the State of West Virginia;

“Bondsman” means any person engaged in the bonding business who is approved and licensed under the provisions of this article who pledges cash or approved securities with the commissioner as security for bail bonds written in connection with a judicial proceeding and receives or is promised money or other things of value for the pledge;

“Commissioner” means the Insurance Commissioner of West Virginia, as defined in §33-1-5 of this code; and

“Insurer” means any domestic, foreign, or alien person, including a surety company, which has been qualified generally to transact surety business in the State of West Virginia.

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§51-10-2. Business impressed with public interest.

The business of becoming surety for compensation upon bonds in criminal cases in the State of West Virginia is impressed with a public interest.

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§51-10-3. Procuring business through official or attorney for consideration prohibited.

It shall be unlawful for any person engaged, either as principal or as the clerk, agent, or representative of a corporation, or another person in the business of becoming surety upon bonds for compensation in the State of West Virginia, either directly or indirectly, to give, donate, lend, contribute, or to promise to give, donate, loan, or contribute any money, property, entertainment, or other thing of value whatsoever to any attorney at law, police officer, sheriff, deputy sheriff, constable, jailer, probation officer, clerk, or other attache of a criminal court, or public official of any character, for procuring or assisting in procuring any person to employ said bondsman to execute as surety any bond for compensation in any criminal case in the State of West Virginia; and it shall be unlawful for any attorney at law, police officer, sheriff, deputy sheriff, constable, jailer, probation officer, clerk, bailiff, or other attache of a criminal court, or public official of any character, to accept or receive from any such person engaged in the bonding business any money, property, entertainment, or other thing of value whatsoever for procuring or assisting in procuring any person to employ any bondsman to execute as surety any bond for compensation in any criminal case in the State of West Virginia.

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§51-10-4. Attorneys procuring employment through official or bondsman for consideration prohibited.

It shall be unlawful for any attorney at law, either directly or indirectly, to give, loan, donate, contribute, or to promise to give, loan, donate, or contribute any money, property, entertainment, or other thing of value whatsoever to, or to split or divide any fee or commission with, any bondsman, police officer, sheriff, deputy sheriff, constable, probation officer, assistant probation officer, bailiff, clerk or other attache of any criminal court for causing or procuring or assisting in causing or procuring any person to employ such attorney to represent him in any criminal case in the State of West Virginia.

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§51-10-5. Receiving other than regular fee for bonding prohibited; bondsman prohibited from endeavoring to secure dismissal or settlement.

It shall be lawful to charge for executing any bond in a criminal case in the State of West Virginia, and it shall be unlawful for any person or corporation engaged in the bonding business, either as principal, or clerk, agent or representative of another, either directly or indirectly, to charge, accept, or receive any sum of money, or other thing of value, other than the bonding fee from any person for whom he has executed bond, for any other service whatever performed in connection with any indictment or charge upon which said person is bailed or held in the State of West Virginia, or in any counties where the court has regulated bonding fees pursuant to section eight of this article, it shall be unlawful for any person or corporation engaged in the bonding business, either as principal, clerk, agent, or representative of another, either directly or indirectly, to charge, accept, or receive any sum of money or other thing of value other than the duly authorized maximum bonding fee, from any person for whom he has executed bond, for any other service whatever performed in connection with any indictment or charge upon which said person is bailed or held in the State of West Virginia. It also shall be unlawful for any person or corporation engaged either as principal or as agent, clerk, or representative of another in the bonding business, to settle, or attempt to settle, or to procure or attempt to procure the dismissal of any indictment, information, or charge against any person in custody or held upon bond in the State of West Virginia, with any court, or with the prosecuting attorney, or with any police officer in any court in the State of West Virginia.

WV Legislature

§51-10-5a. Bonding fee and collateral security required by bail bondsmen.

(a) The bonding fee required by a bail bondsman shall be at least ten percent of the amount of the bond. The bonding fee received by the bondsman shall not, in the aggregate, exceed the amount of the bond.

(b) The bonding fee may be paid as follows:

(1) In full at the time of the issuance of the bond; or

(2) At least three percent paid at the issuance of the bond with the remaining percentage to be paid over a period not to exceed twelve months.

(c) When collateral or security is received by a bail bondsman, a receipt shall be furnished. Copies of all receipts issued shall be kept by the bail bondsman for a minimum of five years. All receipts issued shall:

(1) Be prenumbered and used and filed in consecutive numerical order;

(2) Show the name and address of the bail bondsman;

(3) Show the name and address of the person providing the collateral;

(4) Show the amount and nature of the collateral and the date received;

(5) Show the name of the person accepting collateral; and

(6) Show the total amount of the bond for which the collateral is being accepted and the name of the defendant.

(d) When a bond is to be forfeited, the court is to give notification to the bail bondsman within twenty-four hours of the failure to appear.

WV Legislature

§51-10-6. Posting names of authorized bondsmen; list to be furnished prisoners; prisoner may communicate with bondsman; record to be kept by police.

A typewritten or printed list alphabetically arranged of all persons engaged under the authority of any courts of record pursuant to section eight of this article, in the business of becoming surety on the bonds for compensation shall be posted in a conspicuous place in each police precinct, jail, prisoner's dock, house of detention, municipal court, and justice of the peace court within the county, and one or more copies thereof kept on hand; and when any person who is detained in custody in any such place of detention shall request any person in charge thereof to furnish him the name of a bondsman, or to put him in communication with a bondsman, said list shall be furnished to the person so requesting, and it shall be the duty of the person in charge of said place of detention within a reasonable time to put the person so detained in communication with the bondsman so selected, and the person in charge of said place of detention shall contemporaneously with said transaction make in the blotter or book of record kept in any such place of detention, a record showing the name of the person requesting the bondsman, the offense with which the said person is charged, the time at which the request was made, the bondsman requested, and the person by whom the said bondsman was called, and preserve the same as a permanent record in the book or blotter in which entered.

WV Legislature

§51-10-7. Bondsman prohibited from entering place of detention unless requested by prisoner; record of visit to be kept.

It shall be unlawful for any bondsman, agent, clerk, or representative of any bondsman to enter a police precinct, jail, prisoner's dock, house of detention, justice of the peace court, or other place where persons in the custody of the law are detained in the State of West Virginia, for the purpose of obtaining employment as a bondsman, without having been previously called by a person so detained, or by some relative or other authorized person acting for or on behalf of the person so detained, and whenever any person engaged in the bonding business as principal, or as clerk, or representative of another, shall enter a police precinct, jail, prisoner's dock, house of detention, justice of the peace court, or other place where persons in the custody of the law are detained in the State of West Virginia, he shall forthwith give to the person in charge thereof his mission there, the name of the person calling him and requesting him to come to such place, and the same shall be recorded by the person in charge of the said place of detention and preserved as a public record, and the failure to give such information, or the failure of the person in charge of said place of detention to make and preserve such a record, shall constitute a violation of this article.

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§51-10-8. Qualifications of bondsmen; rules to be prescribed by Insurance Commissioner; bondsman filing requirements; bondsman license renewal requirements; criminal penalty for filing false affidavit; list of bondsmen kept and provided to places of detention by Insurance Commissioner; requiring all bondsman to be licensed by Insurance Commissioner after July 1, 2022.

(a) The commissioner shall propose rules for legislative approval in accordance with the provisions of §29A-3-1 *et seq*. of this code to carry out the intent, administration, and enforcement of this article. The commissioner may promulgate emergency rules pursuant to the provisions of §29A-3-15 of this code as necessary to carry out the intent, administration, and enforcement of this article. The commissioner shall develop all forms, contracts, or other documents to be used for the purposes outlined in this article.

(b) The rules required by subsection (a) of this section shall specify the qualifications that a person must have when applying to be a bondsman, and the terms and conditions upon which the bonding business may be conducted. The commissioner shall formulate testing requirements for all initial license applicants. The commissioner shall require a biennial fee of $200 for all bondsman licensed under this article.

(c) The commissioner, in promulgating and proposing rules required by subsection (a) of this section, and in granting a license to a person to engage in the bonding business, shall take into consideration both the financial responsibility and the moral qualities of the person applying, and a person who has been convicted of any offense involving moral turpitude, or who is not known to be a person of good moral character, shall not be licensed.

(d) The applicant shall provide the commissioner a qualifying power-of-attorney from a licensed insurer or surety company or pledge cash or approved securities with the commissioner as security for bail bonds.

(e) The applicant shall comply with the provisions of §33-12-37 of this code regarding criminal history record checks.

(f) The commissioner shall require every bondsman licensed to engage in the bonding business as a principal to file with the commissioner a list showing the name, age, and residence of each person employed by the bondsman as an agent, clerk, or representative in the bonding business, and require an affidavit from each of the persons stating that the person will abide by the terms and provisions of this article.

(g) The commissioner shall require a person licensed as a bondsman to renew his or her license every two years and to file an affidavit stating that since his or her previous license to engage in the bonding business, he or she has abided by the provisions of this article.

A person who files a false affidavit is guilty of false swearing and, upon conviction thereof, shall be punished as provided by law for the offense.

WV Legislature

(h) The commissioner shall keep a list of all bondsmen and, upon the request of a place of detention listed under §51-10-6 of this code, furnish an alphabetical list of all licensed bondsmen to the jail.

(i) After July 1, 2022, a person may not, either as principal, or as agent, clerk, or representative of an agent, engage in the bonding business unless licensed by the commissioner under this section.

WV Legislature

§51-10-9. Penalties.

Any person violating any provisions of this article other than in the commission of false swearing shall be punished by a fine of not more than $100, or by imprisonment not exceeding six months in the county jail, or both, where no other penalty is provided by this article; and if the person so convicted be a police officer or other public official, he shall upon recommendation of the judge of the criminal court of record of the county to which this article is applicable also be forthwith removed from office; if a bondsman, or the agent, clerk, or representative of a bondsman, he shall be disqualified from thereafter engaging in any manner in the bonding business for such a period of time as the judge of the criminal court of record of the county to which this article is applicable shall order; and, if an attorney at law, shall be subject to suspension or disbarment as attorney at law.

WV Legislature

§51-10-10. Enforcement of article.

It shall be the duty of the judges of the criminal courts of record, the municipal courts, the justices of the peace of the county to which this article is applicable, to see that this article is enforced, and upon the impaneling of each grand jury in the State of West Virginia it shall be the duty of the judge impaneling said jury to give it in charge to the jury to investigate the manner in which this article is enforced and all violations thereof.

WV Legislature