WEST VIRGINIA CODE CHAPTER 51 ARTICLE 10A

WV Legislature

§51-10A-1. Definitions.

As used in this article:

(a) "Bail bondsman" means any person, partnership or corporation engaged for profit in the business of furnishing bail, making bonds or entering into undertakings, as surety, for the appearance of persons charged with a criminal offense or violation of law punishable by fine or imprisonment before any court within or without this state. The term "bail bondsman" includes, but is not limited to, persons conducting a bonding business as defined in section one, article ten of this chapter.

(b) "Bail bond enforcer" means a person who on behalf of a bail bondsman enters this state or is present in this state for the purposes of: (1) Assisting a bail bondsman in presenting the defendant in court when required; (2) assisting in the apprehension and surrender of the defendant to a court; (3) keeping a defendant under surveillance; or (4) executing bonds on behalf of a bail bondsman when a power of attorney has been duly recorded. The term "bail bond enforcer" does not include a duly licensed attorney-at-law or a law-enforcement officer assisting a bail bondsman.

WV Legislature

§51-10A-2. Registration of bail bond enforcers and authorization by bail bondsman required; fees.

(a) No person may act in the capacity of a bail bond enforcer within this state or perform any of the functions, duties, or powers prescribed for bail bond enforcers under section one of this article unless duly registered with the West Virginia state police as provided in this section.

(b) The superintendent of the West Virginia state police shall design registration, authorization and notice forms, which, at minimum, shall require:

(1) Identifying information as to the registrant and at least one bail bondsman on whose behalf he or she is authorized to act as agent: Provided, That a registrant may not act on behalf of any bail bondsman until authorization to act is filed with the superintendent;

(2) A complete set of the registrant's fingerprints, certified by an authorized law-enforcement officer;

(3) A recent credential-sized, full-face photograph of the registrant;

(4) Certification, under penalties of perjury, that the registrant is at least twenty-one years of age, is a citizen of the United States, and has never been convicted of a felony in any state of the United States;

(5) Authorization in writing, as provided in subsection (b) or (c) of this section, from any bail bondsman on whose behalf the bail bond enforcer is authorized to enter this state or act within this state; and

(6) Other information as the superintendent determines is reasonable and necessary.

(c) A bail bondsman conducting a bonding business in this state may grant continuing authorization to a bail bond enforcer who is a citizen and resident of this state to act as his or her agent on a continuing basis, for a period of time not to exceed two years, either statewide or within named counties or judicial circuits of the state, with respect to all defendants for whom the bail bondsman acts as surety to secure an appearance. A continuing authorization shall state the expiration date of the authorization on the face of the document.

(d) A bail bondsman within or without this state may grant authorization to a bail bond enforcer within or without this state to act as his or her agent with respect to a named defendant or named defendants, for a period of time not to exceed sixty days, in which case notice in advance of any action to the West Virginia state police of the time and place of any proposed action within this state with respect to any defendant, and the date any bail bond enforcer who is not a resident of this state will enter the state, is required. An authorization shall state the expiration date of the authorization on the face of the document.

WV Legislature

(e) The superintendent may require any reasonable interrogatories or examinations relating to a registrant's qualifications or other matters which are reasonably necessary to protect the public.

(f)(1) The superintendent may establish and collect a reasonable registration fee not to exceed $50 to accompany registration, and a filing fee not to exceed $10 to accompany the filing of any authorization, to be used for the purposes of defraying administrative and other expenses incurred due to the enactment of this article. No fee is authorized for the filing of notices required under this article.

(2) There is hereby created in the State Treasury a special account, designated the "bail bond enforcer account." All fees collected pursuant to the provisions of this article shall be deposited in the bail bond enforcer account. Expenditures from the account shall be for the purposes set forth in this subsection and are not authorized from collections but are to be made only in accordance with appropriation by the Legislature and in accordance with the provisions of article three, chapter twelve of this code and upon the fulfillment of the provisions set forth in article two, chapter five-a of this code: Provided, That for the fiscal year ending June 30, 2000, expenditures are authorized from collections rather than pursuant to an appropriation by the Legislature.

(g) The superintendent is authorized to file and disseminate an interpretive rule for the purpose of providing information and guidance to prospective registrants, bail bondsmen, and the general public with respect to the enforcement of this article. The superintendent is charged with the enforcement of this article in the civil and criminal courts of the state and may take any lawful action reasonably necessary to effectuate its purposes.

WV Legislature

§51-10A-3. Effect of authorization.

A bail bond enforcer authorized or employed by a bail bondsman to act within this state with respect to any defendant whose custody or appearance the bail bond enforcer secures or attempts to secure, is the agent of the bail bondsman for any act related to the purposes set forth in section one of this article. A bail bond enforcer who acts in that capacity within this state is the agent of the bail bondsman with whom the bail bond enforcer has an agreement or written or verbal contract, whether or not authorization is filed with the West Virginia state police as required in section two of this article.

WV Legislature

§51-10A-4. Prohibited conduct.

A bail bond enforcer may not:

(a) Enter an occupied residential structure without the consent of the occupants who are present at the time of the entry;

(b) Conduct a bail recovery arrest or apprehension without written authorization from a bail bondsman;

(c) Wear, carry or display any uniform, badge, shield or other insignia or emblem that implies that the bail bond enforcer is an employee, officer or agent of this state, a political subdivision of this state or the federal government. A bail bond enforcer may display identification that indicates his or her status as a bail bond enforcer only; or

(d) Conduct a bail bond apprehension or arrest without exercising due care to protect the safety of persons other than the defendant and the property of persons other than the defendant.

WV Legislature

§51-10A-5. Unauthorized acts; penalties.

(a) A person who willfully violates any provision of section four of this article, or who acts as a bail bond enforcer within this state without filing a registration, authorization or notice required by this article, is guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than $500 or more than $10,000, or imprisoned in the county jail not more than sixty days, or both fined and imprisoned.

(b) A bail bondsman who, without filing the authorization required in this article, employs or contracts with a bail bond enforcer who enters this state or acts on the bondsman's behalf within this state; who authorizes an unregistered bail bond enforcer to act on his or her behalf; or whose agent acts in a manner prohibited in section four of this article, is subject to a civil penalty of $10,000, enforceable by civil action in the circuit court of Kanawha County or the circuit court of any county in which the unauthorized action as a bail bond enforcer has occurred. The superintendent of the West Virginia state police is authorized to enforce payment of civil penalties through the courts of this state. Civil penalties pursuant to this section are payable one-half to the State Police Death, Disability and Retirement Fund and one-half to the crime victims compensation fund.

WV Legislature

§51-10A-6. Prohibition against providing fiduciary bonds in estates; exception.

A bail bonding company or a bail bond enforcer may not provide fiduciary bonds for an estate unless the bail bonding company or bail bond enforcer is licensed with the Insurance Commissioner to act as an agent for an insurance company that provides surety or fiduciary bonds.

WV Legislature