

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1959



ENROLLED

HOUSE BILL No. 42

(By Mr. GOSHORN)



PASSED FEB 9, 1959

In Effect FROM Passage



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House Bill No. 42

(By MR. GOSHORN)

[Passed February 9, 1959; in effect from passage.]

AN ACT to amend chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, by adding thereto a new article, designated article ten, relating to the regulation, supervision and qualification of professional bondsmen in criminal cases.

Be it enacted by the Legislature of West Virginia:

That chapter fifty-one of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended by adding thereto a new article, designated article ten, to read as follows:

Article 10. Regulation, Supervision and Qualification of Professional Bondsmen in Criminal Cases.

Section 1. *Definitions.*—The words “bonding business”
2 as used in this article mean the business of becoming
3 surety for compensation upon bonds in criminal cases in
4 the state of West Virginia, and the word “bondsman”

5 means any person or corporation engaged either as prin-
6 cipal or as agent, clerk, or representative of another in
7 such business.

Sec. 2. *Business Impressed with Public Interest.*—The
2 business of becoming surety for compensation upon bonds
3 in criminal cases in the state of West Virginia is impressed
4 with a public interest.

Sec. 3. *Procuring Business Through Official or Attorney
2 for a Consideration—Prohibited.*—It shall be unlawful for
3 any person engaged, either as principal or as the clerk,
4 agent, or representative of a corporation, or another per-
5 son in the business of becoming surety upon bonds for
6 compensation in the state of West Virginia, either directly
7 or indirectly, to give, donate, lend, contribute, or to
8 promise to give, donate, loan, or contribute any money,
9 property, entertainment, or other thing of value what-
10 soever to any attorney at law, police officer, sheriff,
11 deputy sheriff, constable, jailer, probation officer, clerk,
12 or other attache of a criminal court, or public official of
13 any character, for procuring or assisting in procuring
14 any person to employ said bondsman to execute as surety

15 any bond for compensation in any criminal case in the
16 state of West Virginia; and it shall be unlawful for any
17 attorney at law, police officer, sheriff, deputy sheriff,
18 constable, jailer, probation officer, clerk, bailiff, or other
19 attache of a criminal court, or public official of any
20 character, to accept or receive from any such person en-
21 gaged in the bonding business any money, property, en-
22 tertainment, or other thing of value whatsoever for pro-
23 curing or assisting in procuring any person to employ
24 any bondsman to execute as surety any bond for compen-
25 sation in any criminal case in the state of West Virginia.

Sec. 4. *Attorneys Procuring Employment Through*
2 *Official or Bondsmen for a Consideration—Prohibited.—*
3 It shall be unlawful for any attorney at law, either directly
4 or indirectly, to give, loan, donate, contribute, or to
5 promise to give, loan, donate, or contribute any money,
6 property, entertainment, or other thing of value what-
7 soever to, or to split or divide any fee or commission with,
8 any bondsman, police officer, sheriff, deputy sheriff, con-
9 stable, probation officer, assistant probation officer, bailiff,
10 clerk, or other attache of any criminal court for causing

11 or procuring or assisting in causing or procuring any
12 person to employ such attorney to represent him in any
13 criminal case in the state of West Virginia.

Sec. 5. *Receiving Other Than Regular Fee for Bonding*
2 *Prohibited—Bondsman Prohibited from Endeavoring to*
3 *Secure Dismissal or Settlement.*—It shall be lawful to
4 charge for executing any bond in a criminal case in the
5 state of West Virginia, and it shall be unlawful for any
6 person or corporation engaged in the bonding business,
7 either as principal, or clerk, agent, or representative of
8 another, either directly or indirectly, to charge, accept,
9 or receive any sum of money, or other thing of value,
10 other than the bonding fee from any person for whom
11 he has executed bond, for any other service whatever
12 performed in connection with any indictment or charge
13 upon which said person is bailed or held in the state of
14 West Virginia, or in any counties where the court has
15 regulated bonding fees pursuant to section eight of this
16 article, it shall be unlawful for any person or corporation
17 engaged in the bonding business, either as principal, clerk,
18 agent, or representative of another, either directly or

19 indirectly to charge, accept, or receive any sum of money
20 or other thing of value other than the duly authorized
21 maximum bonding fee, from any person for whom he
22 has executed bond, for any other service whatever per-
23 formed in connection with any indictment or charge upon
24 which said person is bailed or held in the state of West
25 Virginia. It also shall be unlawful for any person or
26 corporation engaged either as principal or as agent, clerk,
27 or representative of another in the bonding business, to
28 settle, or attempt to settle, or to procure or attempt to
29 procure the dismissal of any indictment, information, or
30 charge against any person in custody or held upon bond
31 in the state of West Virginia, with any court, or with the
32 prosecuting attorney, or with any police officer in any
33 court in the state of West Virginia.

Sec. 6. *Posting Names of Authorized Bondsmen—List
2 to Be Furnished Prisoners—Prisoners May Communicate
3 with Bondsman—Record to Be Kept by Police.—A type-
4 written or printed list alphabetically arranged of all per-
5 sons engaged under the authority of any courts of record
6 pursuant to section eight of this article, in the business*

7 of becoming surety on the bonds for compensation shall
8 be posted in a conspicuous place in each police precinct,
9 jail, prisoner's dock, house of detention, municipal court,
10 and justice of the peace court within the county, and one
11 or more copies thereof kept on hand; and when any
12 person who is detained in custody in any such place of
13 detention shall request any person in charge thereof to
14 furnish him the name of a bondsman, or to put him in
15 communication with a bondsman, said list shall be fur-
16 nished to the person so requesting, and it shall be the
17 duty of the person in charge of said place of detention
18 within a reasonable time to put the person so detained
19 in communication with the bondsman so selected, and
20 the person in charge of said place of detention shall con-
21 temporaneously with said transaction make in the blotter
22 or book of record kept in any such place of detention, a
23 record showing the name of the person requesting the
24 bondsman, the offense with which the said person is
25 charged, the time at which the request was made, the
26 bondsman requested, and the person by whom the said
27 bondsman was called, and preserve the same as a per-

28 manent record in the book or blotter in which entered.

Sec. 7. *Bondsman Prohibited from Entering Place of*
2 *Detention Unless Requested by Prisoner—Record of Visit*
3 *to Be Kept.*—It shall be unlawful for any bondsman,
4 agent, clerk, or representative of any bondsman to enter
5 a police precinct, jail, prisoner's dock, house of detention,
6 justice of the peace court, or other place where persons
7 in the custody of the law are detained in the state of West
8 Virginia, for the purpose of obtaining employment as a
9 bondsman, without having been previously called by a
10 person so detained, or by some relative or other author-
11 ized person acting for or on behalf of the person so de-
12 tained, and whenever any person engaged in the bonding
13 business as principal, or as clerk, or representative of
14 another, shall enter a police precinct, jail, prisoner's dock,
15 house of detention, justice of the peace court, or other
16 place where persons in the custody of the law are de-
17 tained in the state of West Virginia, he shall forthwith
18 give to the person in charge thereof his mission there,
19 the name of the person calling him, and requesting him
20 to come to such place, and the same shall be recorded by

21 the person in charge of the said place of detention and
22 preserved as a public record, and the failure to give such
23 information, or the failure of the person in charge of said
24 place of detention to make and preserve such a record,
25 shall constitute a violation of this chapter.

Sec. 8. *Qualifications of Bondsmen—Rules to Be Pre-*
2 *scribed by Courts—Lists of Agents to Be Furnished—*
3 *Renewal of Authority to Act.*—Courts of record regularly
4 exercising criminal jurisdiction in counties of more than
5 two hundred thousand population shall, and in counties
6 of two hundred thousand population or less such courts
7 may, provide, under reasonable rules and regulations, the
8 qualifications of persons and corporations applying for
9 authority to engage in the bonding business in criminal
10 cases in the state of West Virginia, and the terms and
11 conditions upon which such business shall be carried on,
12 and no person or corporation shall, either as principal, or
13 as agent, clerk, or representative of another, engage in
14 the bonding business in any court regularly exercising
15 criminal jurisdiction until he shall by order of such court
16 of record be authorized to do so. Such courts of record,

17 in making such rules and regulations, and in granting
18 authority to persons to engage in the bonding business,
19 shall take into consideration both the financial responsi-
20 bility and the moral qualities of the person so applying,
21 and no person shall be permitted to engage, either as
22 principal or agent, in the business of becoming surety
23 upon bonds for compensation in criminal cases, who has
24 ever been convicted of any offense involving moral tur-
25 pitude, or who is not known to be a person of good moral
26 character. It shall be the duty of each of said courts of
27 record to require every person qualifying to engage in
28 the bonding business as principal to file with said court
29 a list showing the name, age, and residence of each person
30 employed by said bondsman as agent, clerk, or represen-
31 tative in the bonding business, and require an affidavit
32 from each of said persons stating that said person shall
33 abide by the terms and provisions of this chapter. Each
34 of said courts of record shall require the authority of
35 each of said persons to be renewed from time to time at
36 such periods as the said courts may by rule provide, and
37 before said authority shall be renewed the said courts

38 shall require from each of said persons an affidavit that
39 since his previous qualifications to engage in the bonding
40 business he has abided by the provisions of this chapter,
41 and any person swearing falsely in any of said affidavits
42 shall be guilty of false swearing.

Sec. 9. *Penalties.*—Any person violating any provisions
2 of this chapter other than in the commission of false
3 swearing shall be punished by a fine of not more than
4 one hundred dollars, or by imprisonment not exceeding
5 six months in the county jail, or both, where no other
6 penalty is provided by this chapter; and if the person
7 so convicted be a police officer or other public official, he
8 shall upon recommendation of the judge of the criminal
9 court of record of the county to which this article is
10 applicable also be forthwith removed from office; if a
11 bondsman, or the agent, clerk, or representative of a
12 bondsman, he shall be disqualified from thereafter engag-
13 ing in any manner in the bonding business for such a
14 period of time as the judge of the criminal court of record
15 of the county to which this article is applicable shall

16 order; and, if an attorney at law, shall be subject to sus-
17 pension or disbarment as attorney at law.

Sec. 10. *Enforcement.*—It shall be the duty of the judges
2 of the criminal courts of record, the municipal courts, the
3 justices of the peace of the county to which this article
4 is applicable, to see that this article is enforced, and upon
5 the impaneling of each grand jury in the state of West
6 Virginia it shall be the duty of the judge impaneling said
7 jury to give it in charge to the jury to investigate the
8 manner in which this chapter is enforced and all viola-
9 tions thereof.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

W. M. Gasper, Jr.
Chairman, Senate Committee

Eugene Andrews
Chairman House Committee

Originated in the House of Delegates

Takes effect FROM passage.

Howard Meyer
Clerk of the Senate

C. Blankenship
Clerk of the House of Delegates

Ralph Bean
President of the Senate

H. R. Paulley
Speaker, House of Delegates

The within approved this the 26th
day of February, 1959.

Ben H. Underwood
Governor

