

SENATE BILL REPORT

SB 5760

AS REPORTED BY COMMITTEE ON WAYS & MEANS, MARCH 8, 1993

Brief Description: Licensing bail bond agents.

SPONSORS: Senators Moore, McCaslin and Winsley

SENATE COMMITTEE ON LABOR & COMMERCE

Majority Report: That Substitute Senate Bill No. 5760 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Moore, Chairman; Prentice, Vice Chairman; Amondson, Cantu, Newhouse, Pelz, Prince, Sutherland, Vognild, and Wojahn.

Staff: Traci Ratzliff (786-7452)

Hearing Dates: February 26, 1993; March 2, 1993

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5760 as recommended by Committee on Labor & Commerce be substituted therefor, and the substitute bill do pass.

Signed by Senators Rinehart, Chairman; Spanel, Vice Chairman; Bauer, Bluechel, Cantu, Gaspard, Hargrove, Hochstatter, McDonald, Moyer, Niemi, Pelz, Snyder, Sutherland, Talmadge, West, and Wojahn.

Staff: Martin Chaw (786-7715)

Hearing Dates: March 8, 1993

BACKGROUND:

Under current state law, insurance agents and brokers who issue bail bond insurance must be licensed as insurance agents and brokers and take the insurance exam. Other individuals who operate or are employed in the bail bond business are not required to be licensed.

SUMMARY:

The original bill was not considered.

EFFECT OF PROPOSED SUBSTITUTE:

A statewide licensing program is established for bail bond agents and bail bond agencies. This program is administered by the Department of Licensing.

Requirements for obtaining a license: To obtain a license as a bail bond agent a person must: be at least 21 years of age; be a U.S. citizen or resident alien; not have been convicted in the last ten years of a crime that is related to the duties of a bail bond agent; be employed by a bail bond agency or be licensed as a bail bond agency; and pay the required fee. To obtain a license as a bail bond agency a person must be 21 years old, pass an examination or have had at least three years' experience as a manager, supervisor, or administrator in a bail bond business or a related field, and pay any additional fees.

Licenses: After receiving an application for a license, the Director of Licensing may conduct an investigation to verify the validity of the information on the application and may conduct a fingerprint check. The director will issue a license card to each licensed bail bond agent.

The director will issue a license certificate to each licensed bail bond agency. The certificate must be posted at the principal office of the licensee. Any advertisement must contain the name of the licensee, the address of record and the license number.

Training: The department will adopt rules, with the advice of the bail bond industry, establishing pre-licensing training and testing requirements. Pre-licensing training and testing will include at least four hours of classes. A bail bond agent need not fulfill the training requirements if within 60 days prior to July 1, 1994, proof is provided to the director that he or she previously has met the training requirements or has been employed as a bail bond agent for at least 18 months.

Insurance: A bail bond agency must post a \$40,000 bond or, in lieu of a bond, a bail bond agency may carry comprehensive general liability insurance of at least \$40,000.

Unlawful acts: After June 30, 1994, it is a gross misdemeanor for a person to act as a bail bond agent without obtaining a license or for an owner or qualified agent of a bail bond agency to employ an unlicensed bail bond agent. A bail bond agent commits a gross misdemeanor if he or she:

- (1) attempts to use the license of another;
- (2) gives false or forged evidence to the director in obtaining a license;
- (3) falsely impersonates another licensee;
- (4) attempts to use an expired or revoked license; or
- (5) violates any of the provisions of this chapter.

After January 1, 1994, it is a gross misdemeanor for a person to own or operate a bail bond agency without obtaining a bail bond agency license.

Recordkeeping requirements: Every licensed bail bond agent is required to keep adequate records for three years of all security received, all trust accounts required by this act,

and all bail bond transactions handled. The records are open to inspection without notice by the director.

Every bail bond agent is required to keep a trust account in a federally insured financial institution located in the state. All moneys received as collateral for a bail bond must be deposited in the trust account no later than three banking days following the receipt of the money. Every bail bond agent required to maintain a trust account must report annually to the director the account number and balance of the trust account and the name and address of the institution that holds the trust account. If the trust account is change or relocated or a new trust account is opened, the bail bond agent must report this information to the director within ten business days.

Failure to comply with these recordkeeping or fiduciary responsibilities is considered an unfair or deceptive act in trade or commerce for the purpose of applying the Consumer Protection Act, Chapter 19.86 RCW.

Ground for discipline or denial or revocation of a license: The 18 prohibited acts that are grounds for disciplinary action or denial, suspension or revocation of a license are listed.

Director's authority: The director is given authority to: amend and rescind rules; issue subpoenas and administer oaths; take depositions; compel attendance of witnesses; establish fees by rule; order summary suspension in emergencies; use the office of administrative hearings; enter into contracts for professional services; adopt standards of professional conduct; impose sanctions for unprofessional conduct; enter into an assurance of discontinuance in lieu of issuing a statement of charges or conducting a hearing; and compel attendance of witnesses at hearings. The director may enforce the payment of unpaid fines in superior court.

Civil action: Any person or governmental agency may maintain an action to enjoin any unlicensed person from continuing to engage in the profession. A civil penalty of up to \$25,000 may be imposed on a person who violates an injunction.

Immunity from suit: The director and individuals acting on the director's behalf are immune from suit based on official acts performed in the course of their duties under this chapter.

Appropriation: none

Revenue: none

Fiscal Note: requested

TESTIMONY FOR (Labor & Commerce):

Under current law, only those individuals who issue bail bond insurance are regulated. Other individuals who provide bail bonds through the use of their own personal property as collateral are not regulated. This bill will provide for the licensing and regulation of all bail bonds persons in this state. This will provide greater protection for those citizens utilizing bail bond services.

TESTIMONY AGAINST (Labor & Commerce):

This bill will result in dual regulation of those bail bond agents that issue bail bond insurance and are currently regulated by the Insurance Commissioner's office.

TESTIFIED (Labor & Commerce): Gordon Walgren, Washington State Bail Bond Agency Association (pro); Pat Sainsbury, King County Prosecutor's office (pro); Melody Bankers, Insurance Commissioner's office (con)

TESTIMONY FOR (Ways & Means):

The fiscal impact to the state GF of this bill would be minimal. The program will be fully fee supported.

TESTIMONY AGAINST (Ways & Means): None

TESTIFIED (Ways & Means): Gordon Walgren, Washington State Bail Bond Agency Association (pro)