

1 HOUSE BILL NO. 808

2 INTRODUCED BY S. GUNDERSON

3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATING TO SURETY BAIL  
5 BOND INSURANCE; PROVIDING QUALIFICATIONS FOR A SURETY BAIL BOND INSURANCE LICENSE;  
6 PROVIDING LICENSE REQUIREMENTS AND TRAINING; PROVIDING FOR THE ARREST AUTHORITY OF  
7 THE BAIL BOND SURETY INSURANCE PRODUCER PRODUCERS; REVISING SURPLUS LINES  
8 INSURANCE LAWS; REVISING RULEMAKING AUTHORITY BY THE COMMISSIONER OF INSURANCE;  
9 AMENDING SECTIONS ~~33-2-306~~, 33-17-212, 33-26-106, 33-26-108, 46-9-401, AND 46-9-510, MCA; AND  
10 PROVIDING EFFECTIVE DATES."

11  
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13  
14 NEW SECTION. **Section 1. Special qualifications for surety bail bond insurance license.** (1)

15 Before approving an application for a surety bail bond insurance license, the commissioner shall verify that the  
16 individual:

- 17 (a) is a natural person at least 21 years of age;
- 18 (b) is a citizen of the United States or is lawfully entitled to remain and work in the United States;
- 19 (c) has obtained a high school diploma, a general equivalency diploma or equivalent document, or  
20 an equivalent education as determined by the commissioner;
- 21 (d) has complied with the requirements of 33-17-211; and
- 22 (e) has successfully completed the training required in [section 2].

23 (2) An individual may not receive, renew, or hold a surety bail bond license if the individual:

- 24 (a) has been convicted of a felony in this state or of any offense committed in another state that  
25 would be a felony if committed in this state; or
- 26 (b) has been convicted of an offense involving dishonesty, a breach of trust, violence, threatened  
27 violence, or the unlawful use, sale, or possession of a controlled substance.

**Amendment - 2nd Reading/2nd House-tan - Requested by: Barry Usher - (S) Committee of Whole**

- 2023

68th Legislature 2023

Drafter: Jameson Walker, 406-444-3722

HB0808.002.001

1 (d) by posting a commercial surety bond executed by the defendant and by a qualified agent for  
2 and on behalf of the surety company, with proof of the full premium payment collected by surety; or

3 (e) by posting an offender's driver's license in lieu of bail if the summons describes a violation of  
4 any offense as provided in 61-5-214 and if the offender is the holder of an unexpired driver's license.

5 (2) The amount of the bond must ensure the appearance of the defendant at all times required  
6 through all stages of the proceeding including trial de novo, if any, and unless the bond is denied by the court  
7 pursuant to 46-9-107, must remain in effect until final sentence is pronounced in open court.

8 ~~(3) This chapter does not prohibit a surety from surrendering the defendant pursuant to 46-9-510 in a  
9 case in which the surety feels insecure in accepting liability for the defendant.~~

10 ~~(4)(3)~~ Whenever a driver's license is accepted in lieu of bail, the judge shall return the driver's license  
11 to the defendant:

12 (a) after the required bail has been posted or there has been a final determination of the charge;  
13 and

14 (b) if the defendant pleaded guilty or was convicted, after a \$25 administrative fee has been paid  
15 to the court."

16

17 **Section 8.** Section 46-9-510, MCA, is amended to read:

18 **"46-9-510. Surrender of defendant.** (1) ~~At any time before the forfeiture of bail or within 90 days after~~  
19 ~~forfeiture:~~ The surety may arrest the defendant PURSUANT TO [SECTION 3]:

20 (a) before the forfeiture of bail; or

21 (b) within 90 days after the notice of forfeiture.

22 ~~(2) The surety WHO HAS AUTHORITY TO ARREST A PERSON PURSUANT TO [SECTION 3], by written~~  
23 ~~authority endorsed on a certified copy of the bail bond, may empower any peace officer to make an arrest of the~~  
24 ~~defendant.~~

25 ~~(3)(2)~~ (a) ~~the The defendant may surrender to the court or any peace officer of this state; or.~~

26 (b) ~~the The surety company or a surety bail bond insurance producer licensed to sell, solicit, or~~  
27 ~~negotiate commercial bail bonds pursuant to Title 33, chapter 17, may arrest the defendant pursuant to [section~~

**Amendment - 2nd Reading/2nd House-tan - Requested by: Barry Usher - (S) Committee of Whole**

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1 3] and surrender the defendant to the court, any peace officer, or any detention center facility of this state. Any  
2 arrest or surrender made pursuant to this subsection ~~(3)(2)~~ must be reported to the commissioner of insurance  
3 on a form and in a manner to be determined by the commissioner.

4 ~~(4)(3)~~ THE DEFENDANT MAY SURRENDER TO THE COURT OR ANY PEACE OFFICER OF THIS STATE.

5 ~~(2)(4)(5)(4)~~ The peace officer or detention center facility shall detain the defendant in custody as  
6 upon commitment and shall file a certificate, acknowledging the surrender, in the court having jurisdiction of the  
7 defendant. The court shall then order the bail exonerated."

8  
9 NEW SECTION. Section 9. Codification instruction. (1) [Sections 1 and 2] are intended to be  
10 codified as an integral part of Title 33, chapter 17, and the provisions of Title 33, chapter 17, apply to [sections  
11 1 and 2].

12 (2) [Section 3] is intended to be codified as an integral part of Title 46, chapter 6, and the  
13 provisions of Title 46, chapter 6, apply to [section 3].

14  
15 NEW SECTION. Section 10. Severability. If a part of [this act] is invalid, all valid parts that are  
16 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,  
17 the part remains in effect in all valid applications that are severable from the invalid applications.

18  
19 COORDINATION SECTION. SECTION 11. COORDINATION INSTRUCTION. IF BOTH HOUSE BILL NO. 62 AND  
20 [THIS ACT] ARE PASSED AND APPROVED AND IF BOTH CONTAIN A SECTION THAT AMEND 46-9-510, THEN [SECTION 7 OF  
21 HOUSE BILL NO. 62], AMENDING 46-9-510, IS VOID.

22  
23 COORDINATION SECTION. SECTION 12. COORDINATION INSTRUCTION. IF BOTH SENATE BILL NO. 172  
24 AND [THIS ACT] ARE PASSED AND APPROVED, THEN SENATE BILL NO. 172 IS VOID.

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26 NEW SECTION. Section 13. Effective dates. (1) Except as provided in subsection (2), [this act] is  
27 effective on passage and approval.