

IN THE SENATE

SENATE BILL NO. 1016

BY JUDICIARY AND RULES COMMITTEE

AN ACT

1  
2 RELATING TO PRODUCER LICENSING; AMENDING SECTION 41-1039, IDAHO CODE, TO RE-  
3 MOVE LANGUAGE PROVIDING THAT A BAIL AGENT'S LICENSE FILED WITH THE CLERK  
4 OF THE DISTRICT COURT IS DEEMED PROOF THAT SUCH BAIL AGENT IS LICENSED;  
5 AND AMENDING SECTION 19-2918, IDAHO CODE, TO PROVIDE CORRECT CODE REF-  
6 ERENCES.

7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. That Section 41-1039, Idaho Code, be, and the same is hereby  
9 amended to read as follows:

10 41-1039. LICENSE REQUIRED. (1) No person shall hold himself out to be  
11 a bail agent or sell, solicit, negotiate, advise or consult regarding the  
12 terms of bail bond contracts in this state unless that person is licensed as  
13 a producer in the line of surety insurance. The director is vested with the  
14 exclusive authority to license bail agents and the authority to regulate the  
15 solicitation, negotiation and transaction of bail with retail consumers of  
16 bail bonds, provided however, that a court retains the authority to refuse  
17 to accept bail bonds from a surety or a bail agent pursuant to its inherent  
18 authority, pursuant to Idaho Code, or as provided by supreme court rules,  
19 guidelines or appellate decisions.

20 (2) A bail agent is authorized to execute and countersign undertakings  
21 of bail, including bail bonds, in connection with any judicial proceedings  
22 in each of the judicial districts of the state. Any sheriff or clerk of the  
23 district court shall accept bail bonds only from a bail agent, unless other-  
24 wise ordered by the court pursuant to subsection (1) of this section.

25 ~~(3) A bail agent's license filed with the clerk of the district court is~~  
26 ~~deemed proof that such bail agent is licensed pursuant to this chapter.~~

27 ~~(4)~~ In addition to the authority to revoke, suspend or refuse to issue  
28 a bail agent's license pursuant to section 41-1016, Idaho Code, the director  
29 shall suspend a license for a period not to exceed six (6) months, after mail-  
30 ing notice to the last known address of the bail agent but prior to a hearing,  
31 if such bail agent:

32 (a) Has been convicted or has entered a guilty plea to any felony or to a  
33 misdemeanor which evidences bad moral character, dishonesty, a lack of  
34 integrity and financial responsibility, or an unfitness and inability  
35 to provide acceptable service to the consuming public; or

36 (b) Intentionally and fraudulently makes a false statement to a court  
37 in connection with a bail transaction.

38 ~~(5)~~ In addition to the provisions of subsection ~~(4)~~ of this section,  
39 the director may also suspend a license for a period not to exceed six (6)  
40 months, after mailing notice to the last known address of the bail agent but  
41 prior to a hearing, for reasons set forth in the rules of the department.

1 SECTION 2. That Section 19-2918, Idaho Code, be, and the same is hereby  
2 amended to read as follows:

3 19-2918. REMITTANCE OF FORFEITURE -- PAYMENT OF BAIL. (1) The person  
4 posting bail shall pay to the clerk of the court the amount of bail ordered  
5 within five (5) business days after the expiration of the one hundred eighty  
6 (180) day period following the order of forfeiture of bail unless:

7 (a) The order of forfeiture has been set aside by the court;

8 (b) The bail has been exonerated by the court; or

9 (c) A motion to set aside the order of forfeiture or a motion to exon-  
10 erate bail has been timely filed, together with a request for hearing,  
11 and has not been decided by the court. If the motion is decided and de-  
12 nied by the court more than one hundred eighty (180) days after the order  
13 of forfeiture, then the person posting bail shall pay the amount of bail  
14 to the clerk of the court within five (5) business days after the entry  
15 of the court's order denying the motion. A timely filed notice of appeal  
16 and motion to stay the forfeiture stays the obligation to remit payment  
17 until five (5) business days after the entry of the court's order deny-  
18 ing the motion to stay or, in the event such motion is granted, five (5)  
19 business days following the final determination of the appeal.

20 (2) If cash is deposited in lieu of bail, the clerk of the court shall  
21 pay the cash deposit to the county treasurer. If the person posting a bail  
22 bond or property bond that has been forfeited does not pay the amount of bail  
23 within the time provided in this section, then the order of forfeiture shall  
24 become a judgment against the person posting the bail bond or property bond.

25 (3) After the notice required by section 19-2915, Idaho Code, in the  
26 event that a surety insurance company fails to pay the amount of any bail for-  
27 feited within the time required by this section, the administrative district  
28 judge may order the sheriffs and clerks of all counties in the judicial dis-  
29 trict not to accept the posting of any new bail bonds from such company until  
30 the amount of bail forfeited has been paid. An administrative district judge  
31 in another district may also order the sheriffs and clerks of all counties in  
32 his district not to accept the posting of any new bail bonds from such company  
33 until the amount of bail forfeited has been paid.

34 (4) If the administrative district judge has reasonable cause to be-  
35 lieve that a bail agent has committed any of the actions that could form  
36 the basis for a suspension of the bail agent's license pursuant to section  
37 41-1039(43), Idaho Code, the court shall immediately refer the matter to  
38 the director of the department of insurance for appropriate disciplinary  
39 action pursuant to sections 41-1016 and 41-1039, Idaho Code, and may enter an  
40 order that the sheriffs and clerks of all counties in the judicial district  
41 shall not accept bail bonds submitted by that bail agent until the director  
42 has rendered a decision as to whether to suspend the bail agent's license  
43 pursuant to section 41-1039(43), Idaho Code. The director shall immediately  
44 notify all judicial district trial court administrators of such decision.