

SENATE BILL NO. 197

INTRODUCED BY J. TREBAS

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATING TO SURETY BAIL BOND INSURANCE; REVERTING STATUTORY LANGUAGE TO PRE-2023 REQUIREMENTS; AMENDING SECTIONS 33-17-212, 33-26-108, 46-9-401, AND 46-9-510, MCA; AND REPEALING SECTIONS 33-17-1601, 33-17-1602, AND 46-6-508, MCA."

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

Section 1. Section 33-17-212, MCA, is amended to read:

"33-17-212. Examination required -- exceptions -- fees. (1) Except as provided in subsection (6), an individual applying for a license is required to pass a written examination. The examination must test the knowledge of the individual concerning each kind of insurance listed in subsection (5) for which application is made, the duties and responsibilities of an insurance producer, and the insurance laws and rules of this state. The examination must be developed and conducted under rules adopted by the commissioner.

(2) (a) The commissioner may conduct the examination or make arrangements, including contracting with an outside testing service, for administering the examination. The commissioner may arrange for the testing service to recover the cost of the examination from the applicant.

(b) The commissioner may not charge a fee for an applicant taking an examination pertaining to prepaid legal insurance. However, the commissioner may contract with an outside testing service for administering the examination, and the commissioner may arrange for the testing service to recover the cost of the examination from the applicant.

(3) An individual who fails to appear for the examination as scheduled or fails to pass the examination may reapply for an examination and shall remit all forms before being rescheduled for another examination.

(4) Except as provided in subsection (6), if the applicant is a business entity, each individual who is to be named in the license as having authority to act for the applicant in its insurance transactions under the

1 license must meet the qualifications provided for in this section.

2 (5) Examination of an applicant for a license must cover only the kinds of insurance for which the
3 applicant has applied to be licensed, as constituted by any one or more of the following classifications:

4 (a) life insurance;

5 (b) disability insurance;

6 (c) property insurance, which for the purposes of this provision includes marine insurance;

7 (d) casualty insurance;

8 (e) surety insurance;

9 (f) ~~surety bail bond insurance~~;

10 ~~(g)~~—limited lines credit insurance;

11 ~~(h)~~(g) title insurance;

12 ~~(i)~~(h) prepaid legal insurance as provided for in 33-1-215.

13 (6) This section does not apply to and an examination is not required of:

14 (a) an individual lawfully licensed as an insurance producer as to the kind or kinds of insurance to
15 be transacted as of or immediately prior to January 1, 1961, and who continues to be licensed;

16 (b) an applicant for a license covering the same kind or kinds of insurance as to which the
17 applicant was licensed in this state, other than under a temporary license, within the 12 months immediately
18 preceding the date of application unless the commissioner has suspended, revoked, or terminated the previous
19 license;

20 (c) an applicant for a license as a nonresident insurance producer;

21 (d) a limited lines travel insurance producer and those registered under the limited lines travel
22 insurance producer's license pursuant to 33-17-1402;

23 (e) an association applying for a license under 33-17-211; or

24 (f) a casualty insurance producer for the purposes of a separate exam for prepaid legal insurance
25 if the casualty insurance producer sells prepaid legal insurance as of April 26, 2013, and continues to maintain
26 a license in good standing as a casualty insurance producer.

27 (7) (a) Subject to the provisions of subsection (7)(b), an individual who applies for a nonresident
28 insurance producer license in this state and who was previously licensed for the same lines of authority in

1 another state may not be required to complete any prelicensing education or examination.

2 (b) The exemption in subsection (7)(a) is available only if the individual is currently licensed in the
3 other state or the individual's application is received within 90 days of the cancellation of the individual's
4 previous license and if the other state issues a certification that, at the time of the cancellation, the individual
5 was in good standing in that state or the state's database records, maintained by the national association of
6 insurance commissioners or any of the association's affiliates or subsidiaries that the association oversees,
7 indicate that the insurance producer is or was licensed in good standing for the lines of authority requested."
8

9 **Section 2.** Section 33-26-108, MCA, is amended to read:

10 **"33-26-108. Rulemaking authority for surety insurers.** The commissioner may adopt rules
11 regarding surety insurers who sell, solicit, or negotiate commercial bail bonds ~~and effect arrests or surrenders~~
12 ~~pursuant to Title 46, chapter 9.~~ The rules must include but are not limited to rules regarding the receipt of
13 collateral, the description of collateral received, the penalty for failure to return collateral, and an annual list of
14 forfeitures of bonds, ~~and the form and manner for reporting surrenders and arrests effected under Title 46,~~
15 ~~chapter 9."~~
16

17 **Section 3.** Section 46-9-401, MCA, is amended to read:

18 **"46-9-401. Forms of bail.** (1) Bail may be furnished in the following ways:

19 (a) by a deposit with the court of an amount equal to the required bail of cash, stocks, bonds,
20 certificates of deposit, or other personal property approved by the court;

21 (b) by pledging real estate situated within the state with an unencumbered equity, not exempt,
22 owned by the defendant or sureties at a value double the amount of the required bail;

23 (c) by posting a written undertaking executed by the defendant and by two sufficient sureties;

24 (d) by posting a commercial surety bond executed by the defendant and by a qualified agent for
25 and on behalf of the surety company; or

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

28 (2) The amount of the bond must ensure the appearance of the defendant at all times required

1 through all stages of the proceeding including trial de novo, if any, and unless the bond is denied by the court
2 pursuant to 46-9-107, must remain in effect until final sentence is pronounced in open court.

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

5 ~~(3)(4)~~ Whenever a driver's license is accepted in lieu of bail, the judge shall return the driver's license
6 to the defendant:

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

9 (b) if the defendant pleaded guilty or was convicted, after a \$25 administrative fee has been paid
10 to the court."
11

12 **Section 4.** Section 46-9-510, MCA, is amended to read:

13 **"46-9-510. Surrender of defendant.** (1) At any time before the forfeiture of bail or within 90 days after
14 forfeiture:

15 (a) the defendant may surrender to the court or any peace officer of this state; or

16 (b) ~~a surety bail bond insurance producer licensed to sell, solicit, or negotiate commercial bail~~
17 ~~bonds pursuant to Title 33, chapter 17, the surety company may arrest the defendant pursuant to 46-6-508 and~~
18 ~~surrender the defendant to the court, any peace officer, or any detention center facility of this state. Any arrest~~
19 ~~or surrender pursuant to this subsection (1) must be reported to the commissioner of insurance on a form and~~
20 ~~in a manner to be determined by the commissioner.~~

21 (2) The peace officer or detention center facility shall detain the defendant in custody as upon
22 commitment and shall file a certificate, acknowledging the surrender, in the court having jurisdiction of the
23 defendant. The court shall then order the bail exonerated."
24

25 **NEW SECTION. Section 5. Repealer.** The following sections of the Montana Code Annotated are
26 repealed:

27 33-17-1601. Special qualifications for surety bail bond insurance license.

28 33-17-1602. Surety bail bond insurance license -- basic course of training -- temporary license.

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