

HOUSE BILL NO. 1126

Introduced by

Judiciary Committee

(At the request of the Insurance Commissioner)

1 A BILL for an Act to amend and reenact sections 26.1-26.6-04, 26.1-26.6-05, and 26.1-26.6-07
2 of the North Dakota Century Code, relating to bail bond agents and defendant retrieval; and to
3 provide a penalty.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 26.1-26.6-04 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **26.1-26.6-04. ~~Qualification~~Appointment and license as bail bond agent - Pledge of**
8 **property as security - Penalty.**

9 A person may not act in the capacity of a bail bond agent or perform any of the functions,
10 duties, or powers prescribed for a bail bond agent under this chapter unless that person is
11 ~~qualified~~appointed and licensed as provided in this chapter. However, this section does not
12 prohibit any individual from pledging real or other property as security for a bail bond in judicial
13 proceedings if the individual does not receive, or is not promised, money or other things of
14 value therefor. Violation of this section is a class BA misdemeanor.

15 **SECTION 2. AMENDMENT.** Section 26.1-26.6-05 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **26.1-26.6-05. Violations - Penalties.**

- 18 1. The commissioner may suspend, revoke, or refuse to continue, issue, or renew any
19 license issued under this chapter if, after notice to the licensee and hearing, the
20 commissioner finds as to the licensee any of the following conditions:
- 21 a. Recommending any particular attorney at law to handle the case in which the bail
22 bond agent has caused a bond to be issued under this chapter.
 - 23 b. Forging the name of another to a bond or application for bond.

- 1 c. Soliciting business in or about any place for prisoners or persons confined,
2 arraigned, or in custody.
- 3 d. Paying a fee or rebate, or giving or promising anything of value to a jailer, trustee,
4 police officer or officer of the law, or any other person who has power to arrest or
5 hold in custody or to any public official or public employee in order to secure a
6 settlement, compromise, remission, or reduction of the amount of any bail bond
7 or entreatment thereof, or to secure, delay, or other advantage. This subdivision
8 does not apply to a jailer, police officer, or officer of the law who is not on duty
9 and who assists in the apprehension of a defendant.
- 10 e. Paying a fee or rebating or giving anything of value to an attorney in bail bond
11 matters, except in defense of any action on a bond.
- 12 f. Accepting anything of value from a principal other than a premium. Provided, the
13 bail bond agent may accept collateral security or other indemnity from the
14 principal which must be returned immediately upon final termination of liability on
15 the bond. Such collateral security or other indemnity required by the bail bond
16 agent must be reasonable in relation to the amount of the bond.
- 17 g. Willfully failing to return collateral security to the principal when the principal is
18 entitled to the security.
- 19 h. Knowingly employing a person whose insurance producer license has been
20 revoked, suspended, or denied in this or any other state.
- 21 i. Knowingly or intentionally executing a bail bond without collecting in full a
22 premium for the bond, at the premium rate as filed with and approved by the
23 commissioner.
- 24 j. Failing to pay any forfeiture as directed by a court and as required by this
25 chapter.
- 26 2. For purposes of subdivisions f and g of subsection 1, a bail bond agent shall monitor
27 the status of bonds written by the bail bond agent to make timely return of the
28 collateral security to the principal. It is not a defense to administrative action under this
29 section that the bail bond agent did not know liability on the bond had been terminated
30 or that the principal was entitled to return of the security.

1 3. A bail bond agent or bail bond agency may not advertise as or hold itself out to be a
2 surety company.

3 ~~3.4.~~ A bail bond agent may not sign nor countersign any blank in any bond, nor give up
4 power of attorney to or otherwise authorize, anyone to countersign the bail bond
5 agent's name to bonds.

6 4.5. When a bail bond agent accepts collateral, the bail bond agent shall give a written
7 receipt for the collateral and this receipt must contain a full description of the collateral
8 received in the terms of redemption. The bail bond agent shall keep copies of all
9 receipts of the bonds to be placed in business to be available to the commissioner for
10 the commissioner's review.

11 ~~5.6.~~ The provisions and penalties under this section are in addition to those provided under
12 chapter 26.1-26.

13 **SECTION 3. AMENDMENT.** Section 26.1-26.6-07 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **26.1-26.6-07. Surrender of defendant prior to breach- Penalty.**

16 ~~At any time before there has been a breach of the undertaking in any type of bail provided~~
17 herein

18 1. At any time after a defendant has been released from custody pursuant to a bail bond,
19 the surety or bail bond agent may surrender the defendant, or the defendant may
20 surrender, to the official to whose custody the defendant would have been given had
21 the defendant been committed. The defendant may be surrendered without the return
22 of premium for the bond if the defendant has been guilty of nonpayment of premium,
23 changing address without notifying the bail bond agent, self-concealment, or leaving
24 the jurisdiction of the court without the permission of the bail bond agent, or of violating
25 the defendant's contract with the bail bond agent in any way that does harm to the bail
26 bond agent, or the surety, or violates the obligation to the court.

27 2. For the purpose of surrendering the defendant, the surety or licensed bail bond agent
28 acting as an agent for the surety may arrest the defendant ~~before the forfeiture of the~~
29 ~~undertaking~~, or by written authority endorsed on a certified copy of the undertaking,
30 may empower any peace officer to make arrest, first paying the lawful fees therefor.

- 1 3. A person may not engage in the business of taking or attempting to take into custody a
- 2 defendant on a bail bond, unless the person is the surety that issued the bail bond or
- 3 is a person licensed as a bail bond agent and is an appointed agent of the surety. This
- 4 section does not affect the provisions of chapter 29-06.
- 5 4. Violation of this section is a class C felony.