

---

**SUBSTITUTE HOUSE BILL 1098**

---

**State of Washington**

**63rd Legislature**

**2013 Regular Session**

**By** House Public Safety (originally sponsored by Representatives Hope and Hurst)

READ FIRST TIME 02/11/13.

1       AN ACT Relating to adopting certain unanimous recommendations of  
2 the bail practices work group created in section 2, chapter 256, Laws  
3 of 2010; amending RCW 10.19.100, 10.19.160, 18.185.010, 18.185.020,  
4 18.185.040, 18.185.070, and 18.185.110; and adding a new section to  
5 chapter 10.19 RCW.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7       **Sec. 1.** RCW 10.19.100 and 1891 c 28 s 86 are each amended to read  
8 as follows:

9       The parties, or either of them, against whom such judgment may be  
10 entered in the superior or supreme courts, may stay said execution for  
11 sixty days from the date of the notification by the court by giving a  
12 bond with two or more sureties, to be approved by the clerk,  
13 conditioned for the payment of such judgment at the expiration of sixty  
14 days, unless the same shall be vacated before the expiration of that  
15 time.

16       **Sec. 2.** RCW 10.19.160 and 1986 c 322 s 5 are each amended to read  
17 as follows:

18       The surety on the bond may return a person to custody (~~(a person)~~)

1 for good cause in a criminal case under the surety's bond if the  
2 surrender is accompanied by a notice of forfeiture or a notarized  
3 affidavit specifying the reasons for the surrender. Good cause for  
4 surrender includes, but is not limited to, a reasonable belief in a  
5 substantial increase in the likelihood of the risk of flight, violation  
6 of a court order, failure to appear, or the concealment or intentional  
7 misrepresentation of information by the person, provided that good  
8 cause does not include failure to make timely payments to the surety  
9 for the bond premium. The surrender shall be made to the facility in  
10 which the person was originally held in custody or the county or city  
11 jail affiliated with the court issuing the warrant resulting in bail.  
12 If, upon motion by a party to the bail transaction, a court determines  
13 that good cause does not exist for the surety to surrender a person,  
14 the sole remedy is that the surety shall return the premium paid by, or  
15 on behalf of, the person, as well as any recovery fee.

16 NEW SECTION. **Sec. 3.** A new section is added to chapter 10.19 RCW  
17 to read as follows:

18 The presiding judge of a court shall notify the administrative  
19 office of the courts when the court revokes or reinstates the  
20 justification or certification of a bail bond agent to post bonds in  
21 the court. The notice to the administrative office of the courts must  
22 include the reasons for the revocation or reinstatement. Upon  
23 receiving the notification, the administrative office of the courts  
24 shall notify superior courts and courts of limited jurisdiction  
25 statewide. No civil liability may be imposed by any court on the  
26 administrative office of the courts or its employees under this section  
27 except upon proof of bad faith or willful or wanton misconduct or gross  
28 negligence.

29 **Sec. 4.** RCW 18.185.010 and 2004 c 186 s 2 are each amended to read  
30 as follows:

31 Unless the context clearly requires otherwise, the definitions in  
32 this section apply throughout this chapter.

33 (1) "Department" means the department of licensing.

34 (2) "Director" means the director of licensing.

35 (3) "Commission" means the criminal justice training commission.

1 (4) "Collateral or security" means property of any kind given as  
2 security to obtain a bail bond.

3 (5) "Bail bond agency" means a business that sells and issues  
4 corporate surety bail bonds or that provides security in the form of  
5 personal or real property to ensure the appearance of a criminal  
6 defendant before the courts of this state or the United States.

7 (6) "Qualified agent" means an owner, sole proprietor, partner,  
8 manager, officer, or chief operating officer of a corporation who meets  
9 the requirements set forth in this chapter for obtaining a bail bond  
10 agency license.

11 (7) "Bail bond agent" means a person who is employed by a bail bond  
12 agency and engages in the sale or issuance of bail bonds, but does not  
13 mean a clerical, secretarial, or other support person who does not  
14 participate in the sale or issuance of bail bonds.

15 (8) "Licensee" means a bail bond agency, a bail bond agent, a  
16 qualified agent, or a bail bond recovery agent.

17 (9) "Branch office" means any office physically separated from the  
18 principal place of business of the licensee from which the licensee or  
19 an employee or agent of the licensee conducts any activity meeting the  
20 criteria of a bail bond agency.

21 (10) "Bail bond recovery agent" means a person who is under  
22 contract with a bail bond agent to receive compensation, reward, or any  
23 other form of lawful consideration for locating, apprehending, and  
24 surrendering a fugitive criminal defendant for whom a bail bond has  
25 been posted. "Bail bond recovery agent" does not include a general  
26 authority Washington peace officer or a limited authority Washington  
27 peace officer.

28 (~~(11) ("Contract" means a written agreement between a bail bond~~  
29 ~~agent or qualified agent and a bail bond recovery agent for the purpose~~  
30 ~~of locating, apprehending, and surrendering a fugitive criminal~~  
31 ~~defendant in exchange for lawful consideration.~~

32 (+12+)) "Planned forced entry" means a premeditated forcible entry  
33 into a dwelling, building, or other structure without the occupant's  
34 knowledge or consent for the purpose of apprehending a fugitive  
35 criminal defendant subject to a bail bond. "Planned forced entry" does  
36 not include situations where, during an imminent or actual chase or  
37 pursuit of a fleeing fugitive criminal defendant, or during a casual or

1 unintended encounter with the fugitive, the bail bond recovery agent  
2 forcibly enters into a dwelling, building, or other structure without  
3 advanced planning.

4 (12) "Property bond" means a bail bond executed for compensation  
5 that is guaranteed by a bail bond agent licensed to do business as a  
6 bail bond agent by the department.

7 (13) "Property bond agency" means a bail bond agency that issues  
8 property bonds.

9 (14) "Surety bond" means a bail bond that is guaranteed by an  
10 insurance company that has been qualified to transact surety insurance  
11 business in Washington state by the insurance commissioner.

12 (15) "Surety bond agency" means a bail bond agency that issues  
13 surety bonds.

14 **Sec. 5.** RCW 18.185.020 and 1993 c 260 s 3 are each amended to read  
15 as follows:

16 An applicant must meet the following minimum requirements to obtain  
17 or renew a bail bond agent license:

- 18 (1) Be at least eighteen years of age;
- 19 (2) Be a citizen or resident alien of the United States;
- 20 (3) Not have been convicted of a crime in any jurisdiction in the  
21 preceding ten years, if the director determines that the applicant's  
22 particular crime directly relates to a capacity to perform the duties  
23 of a bail bond agent and the director determines that the license  
24 should be withheld to protect the citizens of Washington state. If the  
25 director shall make a determination to withhold a license because of  
26 previous convictions, the determination shall be consistent with the  
27 restoration of employment rights act, chapter 9.96A RCW;
- 28 (4) Be employed by a bail bond agency or be licensed as a bail bond  
29 agency; and
- 30 (5) Pay the required fee.

31 **Sec. 6.** RCW 18.185.040 and 2004 c 186 s 4 are each amended to read  
32 as follows:

33 (1) Applications for licenses required under this chapter shall be  
34 filed with the director on a form provided by the director. The  
35 director may require any information and documentation that reasonably

1 relates to the need to determine whether the applicant meets the  
2 criteria, including fingerprints.

3 (2) Applicants for licensure or endorsement as a bail bond agent or  
4 a bail bond recovery agent must complete a records check through the  
5 Washington state patrol criminal identification system and through the  
6 federal bureau of investigation at the applicant's expense. Such  
7 record check shall include a fingerprint check using a Washington state  
8 patrol approved fingerprint card. The Washington state patrol shall  
9 forward the fingerprints of applicants to the federal bureau of  
10 investigation for a national criminal history records check. The  
11 director may accept proof of a recent national crime information  
12 center/III criminal background report or any national or interstate  
13 criminal background report in addition to fingerprints to accelerate  
14 the licensing and endorsement process. The director is authorized to  
15 periodically perform a background investigation of licensees to  
16 identify criminal convictions subsequent to the renewal of a license or  
17 endorsement.

18 **Sec. 7.** RCW 18.185.070 and 1993 c 260 s 8 are each amended to read  
19 as follows:

20 (1) No bail bond agency license may be issued under the provisions  
21 of this chapter unless the qualified agent files with the director a  
22 bond, executed by a surety company authorized to do business in this  
23 state, in the sum of ten thousand dollars for a surety bond agency and  
24 one hundred thousand dollars for a property bond agency conditioned to  
25 recover against the agency and its servants, officers, agents, and  
26 employees by reason of its violation of the provisions of RCW  
27 18.185.100. The bond shall be made payable to the state of Washington,  
28 and anyone so injured by the agency or its servants, officers, agents,  
29 or employees may bring suit upon the bond in any county in which  
30 jurisdiction over the licensee may be obtained. The suit must be  
31 brought not later than two years after the failure to return property  
32 in accordance with RCW 18.185.100. If valid claims against the bond  
33 exceed the amount of the bond or deposit, each claimant shall be  
34 entitled only to a pro rata amount, based on the amount of the claim as  
35 it is valid against the bond, without regard to the date of filing of  
36 any claim or action.

1 (2) Every licensed bail bond agency must at all times maintain on  
2 file with the director the bond required by this section in full force  
3 and effect. Upon failure by a licensee to do so, the director shall  
4 suspend the licensee's license and shall not reinstate the license  
5 until this requirement is met.

6 (3) In lieu of posting a bond, a qualified surety agent may deposit  
7 ten thousand dollars in an interest-bearing account(~~(,—ten))~~ and a  
8 qualified property bond agent may deposit one hundred thousand dollars  
9 in an interest-bearing account.

10 (4) The director may waive the bond requirements of this section,  
11 in his or her discretion, pursuant to adopted rules.

12 **Sec. 8.** RCW 18.185.110 and 2008 c 105 s 4 are each amended to read  
13 as follows:

14 In addition to the unprofessional conduct described in RCW  
15 18.235.130, the following conduct, acts, or conditions constitute  
16 unprofessional conduct:

17 (1) Violating any of the provisions of this chapter or the rules  
18 adopted under this chapter;

19 (2) Failing to meet the qualifications set forth in RCW 18.185.020,  
20 18.185.030, and 18.185.250;

21 (3) Knowingly committing, or being a party to, any material fraud,  
22 misrepresentation, concealment, conspiracy, collusion, trick, scheme,  
23 or device whereby any other person lawfully relies upon the word,  
24 representation, or conduct of the licensee. However, this subsection  
25 (3) does not prevent a bail bond recovery agent from using any pretext  
26 to locate or apprehend a fugitive criminal defendant or gain any  
27 information regarding the fugitive;

28 (4) Assigning or transferring any license issued pursuant to the  
29 provisions of this chapter, except as provided in RCW 18.185.030 or  
30 18.185.250;

31 (5) Conversion of any money or contract, deed, note, mortgage, or  
32 other evidence of title, to his or her own use or to the use of his or  
33 her principal or of any other person, when delivered to him or her in  
34 trust or on condition, in violation of the trust or before the  
35 happening of the condition; and failure to return any money or  
36 contract, deed, note, mortgage, or other evidence of title within

1 thirty days after the owner is entitled to possession, and makes demand  
2 for possession, shall be prima facie evidence of conversion;

3 (6) Entering into a contract, including a general power of  
4 attorney, with a person that gives the bail bond agent full authority  
5 over the person's finances, assets, real property, or personal  
6 property;

7 (7) Failing to keep records, maintain a trust account, or return  
8 collateral or security, as required by RCW 18.185.100;

9 ~~((+7))~~ (8) Any conduct in a bail bond transaction which  
10 demonstrates bad faith, dishonesty, or untrustworthiness;

11 ~~((+8))~~ (9) Violation of an order to cease and desist that is  
12 issued by the director under chapter 18.235 RCW;

13 ~~((+9))~~ (10) Wearing, displaying, holding, or using badges not  
14 approved by the department;

15 ~~((+10))~~ (11) Making any statement that would reasonably cause  
16 another person to believe that the bail bond recovery agent is a sworn  
17 peace officer;

18 ~~((+11))~~ (12) Failing to carry a copy of the contract or to present  
19 a copy of the contract as required under RCW 18.185.270(1);

20 ~~((+12))~~ (13) Using the services of an unlicensed bail bond  
21 recovery agent or using the services of a bail bond recovery agent  
22 without issuing the proper contract;

23 ~~((+13))~~ (14) Misrepresenting or knowingly making a material  
24 misstatement or omission in the application for a license;

25 ~~((+14))~~ (15) Using the services of a person performing the  
26 functions of a bail bond recovery agent who has not been licensed by  
27 the department as required by this chapter;

28 ~~((+15))~~ (16) Performing the functions of a bail bond recovery  
29 agent without being both (a) licensed under this chapter or supervised  
30 by a licensed bail bond recovery agent under RCW 18.185.290; and (b)  
31 under contract with a bail bond agent;

32 ~~((+16))~~ (17) Performing the functions of a bail bond recovery  
33 agent without exercising due care to protect the safety of persons  
34 other than the defendant and the property of persons other than the  
35 defendant; (~~or~~

36 ~~+17))~~ (18) Using a dog in the apprehension of a fugitive criminal  
37 defendant;

1        (19) Failing to reasonably disclose, when requested by law  
2 enforcement, information within the bail agent's possession concerning  
3 the location of a fugitive criminal defendant.

4        NEW SECTION.    **Sec. 9.**    If any provision of this act or its  
5 application to any person or circumstance is held invalid, the  
6 remainder of the act or the application of the provision to other  
7 persons or circumstances is not affected.

--- END ---