

CHAPTER 53
Bail Bondsmen and Runners

SECTION 38-53-10. Definitions.

As used in this chapter:

(1) "Accommodation bondsman" means a person who has reached the age of eighteen years, is a resident of this State, who, aside from love and affection and release of the person concerned, receives no consideration for action as surety, and who endorses the bail bond after providing satisfactory evidence of ownership, value, and marketability of real property to the extent necessary to reasonably satisfy the official taking bond that the real or personal property will in all respects be sufficient to assure that the full principal sum of the bond will be realized in the event of breach of the conditions of the bond. "Consideration" as used in this item does not include the legal rights of a surety against a defendant by reason of breach of the conditions of a bail bond nor does it include collateral furnished to and securing the surety so long as the value of the surety's rights in the collateral does not exceed the defendant's liability to the surety by reason of a breach in the conditions of the bail bond.

(2) "Bail bond" means an undertaking by the defendant to appear in court as required upon penalty of forfeiting bail to the State in a stated amount and may include an unsecured appearance bond, a premium-secured appearance bond, an appearance bond secured by a cash deposit of the full amount of the bond, an appearance bond secured by a mortgage, and an appearance bond secured by at least one surety.

(3) "Bail bondsman" means a surety bondsman, professional bondsman, or an accommodation bondsman as defined in this chapter.

(4) "Clerk of court", unless otherwise specified, means the clerk of the circuit court of the county in the state where the bondsman is currently writing or obligated on the majority of those bail bonds which he has written or on which he is obligated.

(5) "Court", unless otherwise specified, means circuit, magistrate's, or municipal court.

(6) "Insurer" means any domestic, foreign, or alien surety company which has qualified generally to transact surety business and specifically to transact bail bond business in this State.

(7) "Obligor" means a principal or a surety on a bail bond.

(8) "Principal" means a defendant or witness obligated to appear in court as required upon penalty of forfeiting bail under a bail bond.

(9) "Professional bondsman" means any person who is approved and licensed under the provisions of this chapter and who pledges cash or approved securities with the clerk of court as security for bail bonds written in connection with a judicial proceeding and receives or is promised money or other things of value for the pledge.

(10) "Runner" means a person employed by a bail bondsman for the purpose of assisting the bail bondsman in presenting the defendant in court when required, assisting in the apprehension and surrender of the defendant to the court, keeping the defendant under necessary surveillance, and executing bonds on behalf of the licensed bondsman when the power of attorney has been recorded. "Runner" does not include an attorney or a law enforcement officer assisting a bondsman.

(11) "Surety" means one who, with the defendant, is liable for the amount of the bail bond upon forfeiture of bail.

Text of (12) effective until July 1, 2024.

(12) "Surety bondsman" means any person who is approved by and licensed by the director or his designee as an insurance agent, appointed by an insurer by power of attorney to execute or countersign bail bonds for the insurer in connection with judicial proceedings, and receives or is promised money or other things of value for the execution or countersignature.

Text of (12) effective July 1, 2024.

(12) "Surety bondsman" means any person who is approved by and licensed by the director or his designee as a property and casualty insurance agent, appointed by an insurer by power of attorney to execute or countersign bail bonds for the insurer in connection with judicial proceedings, and receives or is promised money or other things of value for the execution or countersignature.

(13) "Appropriate judge" means a magistrate, municipal, or circuit court judge who has jurisdiction over the defendant.

(14) "Good cause" means the violation of a specific term of the bail bond not to include the nonpayment of fees.

(15) "Electronic monitoring" means monitoring a person by the use of a device which records or transmits oral or wire communications or an auditory sound, visual images, or information regarding the person's activities.

HISTORY: Former 1976 Code Section 38-53-10 [1975 (59) 127] has no comparable provisions in 1987 Act No. 155; Former 1976 Code Section 38-63-10 [1985 Act No. 189, Section 1] recodified as Section 38-53-10 by 1987 Act No. 155, Section 1; 1989 Act No. 179, Section 1; 1993 Act No. 181, Section 686; 1998 Act No. 425, Section 2; 1999 Act No. 127, Section 1; 2023 Act No. 83 (H.3532), Section 11, eff July 1, 2024; 2023 Act No. 83 (H.3532), Section 12, eff June 20, 2023.

Editor's Note

2023 Act No. 83, Section 19, provides as follows:

"SECTION 19. This act takes effect upon approval by the Governor; however, the provisions of Sections 17-15-35 and 17-15-37 take effect six months after approval by the Governor, and the provisions of Section 38-53-10(12) take effect July 1, 2024."

Effect of Amendment

2023 Act No. 83, Section 11, in (12), substituted "a property and casualty insurance agent" for "an insurance agent".

2023 Act No. 83, Section 12, added (15).

SECTION 38-53-20. Enforcement of chapter.

The director or his designee, clerks of court, and the State Law Enforcement Division have full power and authority to administer the provisions of this chapter for which they are charged with implementing. The director shall promulgate regulations to enforce the purposes and provisions of this chapter. The director may hire employees, examiners, investigators, and other assistants as he considers necessary and shall prescribe their duties.

HISTORY: Former 1976 Code Section 38-53-20 [1975 (59) 127] recodified as Section 38-25-10 by 1987 Act No. 155, Section 1; Former 1976 Code Section 38-63-20 [1985 Act No. 189, Section 1] recodified as Section 38-53-20 by 1987 Act No. 155, Section 1; 1993 Act No. 181, Section 687; 1998 Act No. 425, Section 2.

SECTION 38-53-30. Validity of undertakings.

No undertaking is invalid, nor may any person be discharged from his undertaking, a forfeiture be stayed, the judgment on the undertaking be stayed, set aside, or reversed, nor the collection of the judgment be barred or defeated by reason of any defect, omission, or failure to note or record the default of any defendant or surety, because the undertaking was entered into on a Sunday or other holiday or because of any other irregularity, if it appears from the tenor of the undertaking that the official before whom it was entered into was legally authorized to take it and if the amount of bail was stated.

The liability of a person on an undertaking is not affected by reason of the lack of any qualifications, sufficiency, or competency provided in any other law in this State, by reason of any other agreement whether or not the agreement is expressed in the undertaking, or because the defendant has not joined in the undertaking.

HISTORY: Former 1976 Code Section 38-53-30 [1975 (59) 127; 1976 Act No. 732 Section 8] recodified as Sections 38-25-110, 38-25-150, 38-25-160, 38-25-360 and 38-25-540 by 1987 Act No. 155, Section 1; Former 1976 Code Section 38-63-30 [1985 Act No. 189, Section 1] recodified as Section 38-53-30 by 1987 Act No. 155, Section 1; 1998 Act No. 425, Section 2.

SECTION 38-53-40. Qualifications of surety.

Each surety for the release of a person on bail must be qualified as:

- (a) an insurer and represented by a surety bondsman;
- (b) a professional bondsman; or
- (c) an accommodation bondsman.

HISTORY: Former 1976 Code Section 38-53-40 [1975 (59) 127] recodified as Section 38-25-310 by 1987 Act No. 155, Section 1; Former 1976 Code Section 38-63-40 [1985 Act No. 189, Section 1] recodified as Section 38-53-40 by 1987 Act No. 155, Section 1; 1998 Act No. 425, Section 2.

SECTION 38-53-50. Surety relieved on bond; surrender of defendant; filing of new undertaking.

(A) A surety desiring to be relieved on a bond for good cause shall file with the clerk of court a motion to be relieved on the bond. A copy of the motion must be served upon the defendant, his attorney, and the solicitor's office. The court then shall schedule a hearing to determine if the surety should be relieved on the bond and notify all parties of the hearing date. At the time of the filing of the motion, a fee of twenty dollars must be paid to the clerk of court to be retained by the clerk for use in the operation of the clerk's office. The fee will cover the cost of copies of the motion required by the surety.

(B) If the circumstances warrant immediate incarceration of the defendant to prevent imminent violation of one of the specific terms of the bail bond, or if the defendant has violated one of the specific terms of the bond, the surety may take the defendant to the appropriate detention facility for holding until the court orders that the surety be relieved. The surety, within three business days following recommitment, must file with the detention facility and the court an affidavit clocked in with the clerk of court on a form provided by the Division of Court Administration stating the facts to support the surrender of the defendant for good cause. Nonpayment of premium fees alone is not sufficient cause to warrant immediate incarceration of the defendant. When the defendant and the affidavit are presented at the appropriate detention facility, the facility shall take custody of the defendant. When the affidavit is filed with the court, the surety also shall file a motion to be relieved on the bond pursuant to subsection (A). A surety who surrenders a defendant and files an affidavit which does not show good cause is subject to penalties imposed for perjury as provided for in Article 1, Chapter 9, Title 16.

(C) If the defendant is incarcerated by the surety or a law enforcement agency as a result of a bench warrant, the surety shall file an affidavit with the court stating that the defendant is incarcerated in the appropriate detention facility as a result of the bench warrant as well as the violation of the specific term or terms of the bail bond stated in the bench warrant. Once the affidavit pursuant to the provisions of this subsection has been filed and served on the defendant, the surety is relieved of all liability on the bail bond by the court unless otherwise ordered by the circuit court within fourteen calendar days of the filing of the affidavit, or, if there is no term of court within the fourteen day period, at the ensuing term of court.

(D) After the surety has been relieved by order of the court, a new undertaking must be filed with the appropriate court in order to secure the subsequent release of the defendant. The undertaking must contain the same conditions included in the original bond unless the conditions have been changed by the court.

HISTORY: Former 1976 Code Section 38-53-50 [1975 (59) 127] recodified as Section 38-25-510 by 1987 Act No. 155, Section 1; Former 1976 Code Section 38-63-50 [1985 Act No. 189, Section 1] recodified as Section 38-53-50 by 1987 Act No. 155, Section 1; 1989 Act No. 179, Section 2; 1998 Act No. 425, Section 2; 2008 Act No. 346, Section 3, eff June 25, 2008; 2012 Act No. 286, Section 6, eff June 29, 2012; 2023 Act No. 83 (H.3532), Section 13, eff June 20, 2023.

Effect of Amendment

2023 Act No. 83, Section 13, in (B), in the third sentence, substituted "Nonpayment of premium fees" for "Nonpayment of fees".

SECTION 38-53-55. Contact with victim violations.

When a person engaged in electronic monitoring of a defendant charged with a violent offense as defined by Section 16-1-60 becomes aware that the defendant has had contact with the alleged victim of the violent offense or with the immediate family of the alleged victim of the violent offense, he must immediately or within twenty-four hours, notify law enforcement, the solicitor, and the court having jurisdiction over the defendant of the contact.

HISTORY: 2023 Act No. 83 (H.3532), Section 18, eff June 20, 2023.

SECTION 38-53-60. Arrest of defendant.

For the purpose of surrendering the defendant, the surety may arrest him before the forfeiture of the undertaking or, by his written authority endorsed on a certified copy of the undertaking, may request any judicial officer to order the arrest of the defendant by the surety.

HISTORY: Former 1976 Code Section 38-53-60 [1975 (59) 127] recodified as Sections 38-25-550 and 38-25-560 by 1987 Act No. 155, Section 1; Former 1976 Code Section 38-63-60 [1985 Act No. 189, Section 1] recodified as Section 38-53-60 by 1987 Act No. 155, Section 1; 1998 Act No. 425, Section 2.

SECTION 38-53-70. Issuance of bench warrant; remission of judgment.

If a defendant violates the conditions of release on bond, the court shall issue a bench warrant for the defendant. The court must provide written or electronic notice of the issuance of the bench warrant within thirty days of its issuance to every party bound in the recognizance. If the surety fails to surrender the defendant or place a hold on the defendant's release from incarceration, commitment, or institutionalization within ninety days of the issuance of the bench warrant, the bond is forfeited. At any time before execution is issued on a judgment of forfeiture against a defendant or his surety, the court may direct that the judgment be remitted in whole or in part, upon conditions as the court may impose, if it appears that justice requires the remission of part or all of the judgment. In making a determination as to remission of the judgment, the court shall consider the costs to the State or a county or municipality resulting from the necessity to continue or terminate the defendant's trial and the efforts of law enforcement officers or agencies to locate the defendant. The court, in its discretion, may permit the surety to pay the estreatment in installments for a period of up to six months; however, the surety shall pay a handling fee to the court in an amount equal to four percent of the value of the bond. If at any time during the period in which installments are to be paid the defendant is surrendered to the appropriate detention facility and the surety complies with the recommitment procedures, the surety is relieved of further liability.

HISTORY: Former 1976 Code Section 38-53-70 [1975 (59) 127] recodified as Section 38-25-570 by 1987 Act No. 155, Section 1; Former 1976 Code Section 38-63-70 [1985 Act No. 189, Section 1] recodified as Section 38-53-70 by 1987 Act No. 155, Section 1; 1998 Act No. 425, Section 2; 2002 Act No. 329, Section 3F, eff July 1, 2002; 2008 Act No. 346, Section 4, eff June 25, 2008; 2023 Act No. 83 (H.3532), Section 14, eff June 20, 2023.

Effect of Amendment

2023 Act No. 83, Section 14, rewrote the first two sentences.

SECTION 38-53-80. License required of bail bondsman and runners.

No person may act in the capacity of a professional bondsman, surety bondsman, or runner or perform any of the functions, duties, or powers prescribed for professional or surety bondsmen or runners under the provisions of this chapter unless that person is qualified, except for an accommodation bondsman, licensed in accordance with the provisions of this chapter. No license may be issued to a professional bondsman, surety bondsman, or runner except as provided in this chapter.

The applicant shall apply for a license or renewal of a license on forms prepared and supplied by the director or his designee. The director or his designee may ask the applicant any questions, written or otherwise, relating to his qualifications, residence, prospective place of business, and any other inquiries

which, in the opinion of the director or his designee, are necessary in order to protect the public and ascertain the qualifications of the applicant. The director or his designee shall request that the State Law Enforcement Division conduct any reasonable investigation relative to the determination of the applicant's fitness to be licensed or to continue to be licensed.

The failure of the applicant to secure approval of the director or his designee does not preclude him from applying as many times as he desires, but no application may be considered by the director or his designee within one year subsequent to the date upon which the director or his designee denied the applicant's last application.

HISTORY: Former 1976 Code Section 38-53-80 [1975 (59) 127] recodified as Section 38-25-320 by 1987 Act No. 155, Section 1; Former 1976 Code Section 38-63-80 [1985 Act No. 189, Section 1] recodified as Section 38-53-80 by 1987 Act No. 155, Section 1; 1993 Act No. 181, Section 688; 1998 Act No. 425, Section 2.

SECTION 38-53-84. Notification when electronic monitoring violated.

(A) A person engaged in electronic monitoring of a defendant must, within forty-eight hours, notify the solicitor having jurisdiction over the defendant when he becomes aware or should have become aware that the defendant has violated any provision of the court's order for electronic monitoring. Failure of a defendant to timely pay the bondsman the full monthly electronic monitoring fee associated with the cost of the electronic monitoring device and the associated cost of the monitoring service shall, in and of itself, constitute good cause for the bondsman to file a motion to be relieved on the bond and to surrender the defendant to the custody of the appropriate detention facility pursuant to Section 38-53-50.

(B) Failure of the bondsman to maintain compliance with the reporting requirement of subsection (A) shall be reported to the South Carolina Department of Insurance by the solicitor for administrative action whereby the bondsman's license may be fined, suspended, or revoked.

HISTORY: 2023 Act No. 83 (H.3532), Section 15, eff June 20, 2023.

SECTION 38-53-85. Educational requirements for applicants; examination; exemption from requirement.

(A)(1) An applicant for a license to work as a professional bondsman, surety bondsman, or runner must complete not less than thirty hours of education in subjects pertinent to the duties and responsibilities of a professional and surety bondsman or runner, including all laws and regulations related to being a professional or surety bondsman or runner. A written examination must be administered at the conclusion of the course work. An applicant must pass the examination before he can be licensed.

(2) A person licensed as a professional bondsman, surety bondsman, or runner annually must complete not less than eight hours of continuing education in subjects related to the duties and responsibilities of a professional and surety bondsman or runner before his license may be renewed. The continuing education courses may not include a written or oral examination. The eight-hour annual requirement is in addition to the twenty-four hour continuing education requirement for surety insurance agents required in Section 38-43-106.

(B) A person licensed as a professional bondsman, surety bondsman, or runner before the effective date of this section is not required to complete the requisite thirty hours of education but must complete eight hours of continuing education courses to have his license renewed.

(C) The South Carolina Bail Agent's Association or another group or association approved by the Department of Insurance to provide educational courses to bondsmen must establish an educational curriculum for bondsman licensure. The department must approve the courses offered and ensure that the courses meet the standards for education established by this section and the department. The course work requirement for licensure may not be satisfied by a mail order course. The department also must approve a written examination to be administered by a group that provides educational courses administered at the conclusion of the thirty-hour course work.

(D) A person who falsely represents that he has met the educational requirements of this section is subject, after being afforded notice and an opportunity for a due process hearing by the Administrative Law Court, to the penalty provided in Section 38-53-340.

(E) A professional bondsman, surety bondsman, or runner who is more than sixty years of age and who has at least twenty years of licensure is exempt from the continuing education requirements in this section.

(F) The director shall establish rules and regulations for the effective administration of this section.

HISTORY: 1998 Act No. 425, Section 2; 2000 Act No. 358, Section 1; 2016 Act No. 240 (H.4931), Section 1, eff June 5, 2016.

Effect of Amendment

2016 Act No. 240, Section 1, amended the section, increasing the number of hours of education required for licensure and for continuing education.

SECTION 38-53-90. Qualifications for licensure of professional bondsman, surety bondsman or runner.

(A) Before a license is issued to an applicant permitting him to act as a professional bondsman or runner, the applicant shall furnish to the director or his designee a complete set of his fingerprints and a recent passport size full-face photograph in the manner prescribed by the director. Before a license is issued to a new or renewal applicant permitting him to act as a professional surety bondsman or runner, the applicant must undergo a state criminal records check, supported by his fingerprints, by the South Carolina Law Enforcement Division (SLED) and a national criminal records check, supported by his fingerprints, by the Federal Bureau of Investigation (FBI). The results of these criminal records checks must be reported by the department. The cost associated with the criminal history record must be borne by the applicant. The applicant's fingerprints must be certified by an authorized law enforcement officer.

(B) Before being issued the license, every applicant for a license as a professional bondsman, surety bondsman, or runner shall certify to the director that he:

(1) is eighteen years of age or older;

(2) is a resident of this State;

(3) is a person of good moral character and has not been convicted of a felony or any crime involving moral turpitude within the last ten years;

(4) has knowledge, training, or experience of sufficient duration and extent to satisfy reasonably the director or his designee that he possesses the competence necessary to fulfill the responsibilities of a licensee.

HISTORY: Former 1976 Code Section 38-63-100 [1985 Act No. 189, Section 1]; recodified as Section 38-53-90 by 1987 Act No. 155, Section 1; 1993 Act No. 181, Section 689; 1998 Act No. 425, Section 2; 2013 Act No. 67, Section 1, eff June 13, 2013.

SECTION 38-53-95. Address requirements for bondsman or runner license.

(A) If an individual applies for a professional or surety bondsman or runner license, he shall supply the department his business, email, mailing, and residential street addresses. The bondsman or runner also shall notify the department within thirty days of any change in legal name or any of these addresses.

(B) Failure to inform the director or his designee of a change in legal name or addresses within thirty days is a violation of this title and the bondsman or runner is subject to the penalties provided in Section 38-2-10.

HISTORY: 2016 Act No. 194 (H.4817), Section 1, eff May 26, 2016.

SECTION 38-53-100. Fees.

(A) A license fee of four hundred dollars must be paid to the director or his designee with each application for a license as a professional bondsman. The director or his designee shall forward four hundred dollars to the State Treasurer to be placed in the general fund; however, of the four hundred dollars, two hundred

dollars must be paid over to the director or his designee to offset the costs he incurs under the provisions of this chapter, and two hundred dollars must be paid over to the State Law Enforcement Division to offset the costs it may incur under the provisions of this chapter.

(B) A license fee of two hundred dollars must be paid to the director or his designee with each application for a license as a runner. The director or his designee shall forward two hundred dollars to the State Treasurer to be placed in the general fund; however, of the two hundred dollars, one hundred dollars must be paid over to the director or his designee to offset the costs he incurs under the provisions of this chapter, and one hundred dollars must be paid over to the State Law Enforcement Division to offset the costs it incurs under the provisions of this chapter.

(C) The director or his designee shall forward forty percent of all fees collected under subsections (A) and (B) of this section to the clerk of court of the county where the principal place of business of the bondsman or runner is located. The remaining sixty percent of collected fees must be forwarded to the State Treasurer to be placed in the general fund, of which one-third must be paid to the State Law Enforcement Division, and two-thirds must be paid to the director or his designee to offset expenses incurred under the provisions of this chapter.

(D) In addition to the fees herein provided, a professional or surety bondsman shall pay to the clerk of court of his home county the sum of one hundred fifty dollars annually for each licensee to be paid directly to and retained by the clerk. In addition, each bondsman and runner shall pay to any other county where he is doing business the sum of one hundred dollars to be paid to and retained by the clerk. The fee must be paid annually and directly to the clerk of court who shall deposit it in an account maintained by the clerk.

HISTORY: Former 1976 Code Section 38-63-110 [1985 Act No. 189, Section 1; 1986 Act No. 356, Section 1] recodified as Section 38-53-100 by 1987 Act No. 155, Section 1; 1993 Act No. 181, Section 690; 1998 Act No. 425, Section 2.

SECTION 38-53-102. Suspension of license.

Notwithstanding any other provision of law, the department must suspend for a period of five years the license of a bail bondsman, his associates, affiliates, or runners who refer defendants to attorneys. However, nothing contained in this section shall be construed to prohibit a bail bondsman, his associates, affiliates, or runners from indicating to a defendant that he should contact an attorney for professional assistance, as long as the bail bondsman, his associates, affiliates, or runners do not mention or in any other manner suggest or indicate a particular attorney or law firm by name.

HISTORY: 1999 Act No. 127, Section 3.

SECTION 38-53-110. Financial statement required; examination.

In addition to the other requirements of this chapter, every year, by March first, an applicant for a professional bondsman's license shall furnish a detailed financial statement under oath and in a form as the director or his designee may require. The statement is subject to the same examination as is prescribed by law for domestic insurance companies.

HISTORY: Former 1976 Code Section 38-63-120 [1985 Act No. 189, Section 1] recodified as Section 38-53-110 by 1987 Act No. 155, Section 1; 1993 Act No. 181, Section 691; 1998 Act No. 425, Section 2; 2021 Act No. 13 (H.3585), Section 4, eff April 12, 2021.

Effect of Amendment

2021 Act No. 13, Section 4, in the first sentence, substituted "every year, by March first, an applicant for a professional bondsman's license shall furnish" for "an applicant for a professional bondsman's license shall furnish annually".

SECTION 38-53-120. Additional requirements of runners.

In addition to the other requirements of this chapter, an applicant for a license to be a runner shall show affirmatively that:

(a) the applicant will be employed by only one bail bondsman who shall supervise the work of the applicant and is responsible for the runner's conduct in the bail bond business;

(b) the application is endorsed by the appointing bail bondsman who shall obligate himself in the application to supervise the runner's activities.

HISTORY: Former 1976 Code Section 38-63-130 [1985 Act No. 189, Section 1] recodified as Section 38-53-120 by 1987 Act No. 155, Section 1; 1998 Act No. 425, Section 2.

SECTION 38-53-140. Expiration of license; renewal license.

All licenses issued pursuant to the provisions of this chapter expire annually on June thirtieth unless revoked or suspended prior to that time by the director or his designee or upon notice served upon the director or his designee that the employer of any runner has canceled the licensee's authority to act for the employer.

A renewal license must be issued by the director or his designee to a licensee who has met the continuing education requirements in Section 38-53-85(A) upon the payment of a renewal fee of two hundred dollars for runners and four hundred dollars for professional bondsmen, but the licensees are required in all other respects to comply with the provisions of this chapter. After the receipt of the licensee's application for renewal, the current license continues in effect until the renewal license is issued or denied for cause.

HISTORY: Former 1976 Code Sections 38-63-90 [1985 Act No. 189, Section 1] and 38-63-150 [1985 Act No. 189, Section 1] recodified as Section 38-53-140 by 1987 Act No. 155, Section 1; 1993 Act No. 181, Section 693; 1998 Act No. 425, Section 2.

SECTION 38-53-150. Denial, suspension, revocation, or refusal to renew license; monetary penalty.

(A) The director or his designee may deny, suspend, revoke, or refuse to renew any license issued under this chapter for any of the following causes:

(1) for any cause sufficient to deny issuance of the original license;

(2) violation of any laws of this State relating to bail in the course of dealings under the license issued to a bondsman or runner by the director or his designee;

(3) material misstatement, misrepresentation, or fraud in obtaining the license;

(4) misappropriation, conversion, or unlawful withholding of monies belonging to insurers or others and received in the conduct of business under the license;

(5) fraudulent or dishonest practices while conducting business as a licensee;

(6) conviction of a felony within the last ten years regardless of whether the conviction resulted from conduct in or related to the bail bond business;

(7) failure to comply with or violation of the provisions of this chapter or of any order of the director or his designee or regulation of the department;

(8) when in the judgment of the director or his designee the licensee has in the conduct of his affairs under the license demonstrated incompetency or untrustworthiness, that he is no longer in good faith carrying on the bail bond business, or that he is guilty of rebating, offering to rebate, or offering to divide the premiums received for the bond;

(9) for failing to pay any judgment or decree rendered on any forfeited undertaking in any court of competent jurisdiction;

(10) for charging or receiving as premium or compensation for the making of any deposit or bail bond any sum in excess of that permitted by this chapter;

(11) for requiring as a condition of his executing a bail bond that the defendant agree to engage the services of a specified attorney.

(B) The director or his designee, in lieu of revoking or suspending a license in accordance with the provisions of this chapter, in any one proceeding, by order, may require the licensee to pay to the director

or his designee to be deposited in the general fund of the State a monetary penalty as provided in Section 38-2-10(2) for each offense. Upon failure of the licensee to pay the penalty within twenty days after the mailing of the order, postage prepaid, registered, and addressed to the last known place of business of the licensee, unless the order is stayed by an order of a court of competent jurisdiction, the director or his designee may revoke the license of the licensee or may suspend the license for a period as he determines.

(C) A professional or surety bondsman or runner whose license has been revoked cannot be issued another license for a period of one year and must meet all requirements under this chapter prior to relicensing by the department.

HISTORY: Former 1976 Code Section 38-63-160 [1985 Act No. 189, Section 1] recodified as Section 38-53-150 by 1987 Act No. 155, Section 1; 1988 Act No. 374, Section 23; 1993 Act No. 181, Section 694; 1998 Act No. 425, Section 2.

SECTION 38-53-160. Notice and hearing required; right to appeal.

No license may be refused, suspended, or revoked, or renewal refused, except on reasonable notice and opportunity to be heard afforded the person licensed or seeking renewal of the license. Any applicant for a license as a professional or surety bondsman or runner whose application has been denied or whose license has been suspended or revoked, or renewal of the license denied, has the right of appeal from the final order of the director or his designee to the Administrative Law Court as provided by law.

HISTORY: Former 1976 Code Section 38-63-170 [1985 Act No. 189, Section 1] recodified as Section 38-53-160 by 1987 Act No. 155, Section 1; 1993 Act No. 181, Section 695; 1998 Act No. 425, Section 2.

SECTION 38-53-170. Unlawful acts.

No bondsman or runner may:

(a) pay a fee or rebate or give or promise anything of value, directly or indirectly, to a jailer, law enforcement officer, committing magistrate, or any other person who has power to arrest or hold in custody, or to any public official or public employee in order to secure a settlement, compromise, remission, or reduction of the amount of any bail bond or the forfeiture of the bail bond, including the payment to the law enforcement officers, directly or indirectly, for the arrest or apprehension of a principal or principals who have caused a forfeiture;

(b) pay a fee or rebate or give anything of value to an attorney in bail bond matters, except in defense of any action on a bond;

(c) pay a fee or rebate or give or promise anything of value to the principal or anyone in his behalf;

(d) participate in the capacity of an attorney at a trial or hearing of one on whose bond he is surety, nor suggest or advise the employment of or name for employment any particular attorney to represent the principal;

(e) accept anything of value from a principal except the premium, which may not exceed fifteen percent of the face amount of the bond, with a minimum fee of one hundred dollars or ten percent of the bond, whichever is greater, that must be charged and collected by the bondsman before the execution of the bond. Conditions of the bond which expressly or implicitly require payment of monies in excess of the premium, as a cost of satisfying the condition of the bond, shall not be considered part of the bondsman's premium, and are not affected by this code provision. The bondsman may collect these fees from the defendant and is not limited by any language requirements of this code provision.

However, the bondsman is permitted to enter into a payment agreement by attaching a statement of bondsman to the bond proceeding form and this agreement shall require the principal on the bail bond or any indemnitor to make a minimum down payment of one hundred dollars. This payment agreement may not be altered and must not exceed eighteen months after the date on which the bond was executed. If the payment has not been made for two consecutive months, the bondsman must send a certified notice to the last known address of the principal and indemnitor demanding payment be made within ten days to bring the agreement current. If no payment is received by the end of the notice period, the bondsman must

surrender the principal to the proper detention facility for holding and file a motion to be relieved as provided in Section 38-53-50(A) or (B), at which time the agreement must be accelerated, and the balance paid in full, before or at the motion hearing for the principal to be rereleased on bond. The bondsman may accept collateral security or other indemnity from the principal which must be returned within ten days after final termination of liability on the bond unless a bench warrant has been issued. The bondsman shall identify who is paying the premium and shall represent that the collateral security or other indemnity has not been obtained from any person who has a greater interest in the principal's disappearance than appearance for trial. The collateral security or other indemnity required by the bondsman must be reasonable in relation to the amount of the bond. If the bond is forfeited, a bondsman may not convert collateral described in the collateral receipt to cash until he has provided a ten-day notice of this pending conversion to the depositor. This notice must be sent by certified mail to the last known address of the depositor. After the conversion, the bondsman must disclose the actual amount received to the depositor and must return any amount received that exceeds the final judgement or consent amount, less any reasonable expenses. These reasonable expenses include apprehension and legal costs incurred as a result of the violation of the bond. The bondsman must provide the depositor copies of all receipts and, if applicable, the overage money within three days after settlement;

(f) solicit business in any of the courts or on the premises of any of the courts of this State, in the office of any magistrate, or in or about any place where prisoners are confined. Law enforcement officers and jailers shall report any violations of this provision to the court. Any action taken pursuant to this provision resulting in a conviction, guilty plea, or plea of nolo contendere pursuant to Section 38-53-340 must be reported to the director or his designee by the court within thirty days; or

(g) advise or assist the principal for the purpose of forfeiting bond.

HISTORY: Former 1976 Code Section 38-63-180 [1985 Act No. 189, Section 1] recodified as Section 38-53-170 by 1987 Act No. 155, Section 1; 1988 Act No. 476; 1993 Act No. 181, Section 696; 1998 Act No. 425, Section 2; 2023 Act No. 83 (H.3532), Section 16, eff June 20, 2023.

Effect of Amendment

2023 Act No. 83, Section 16, rewrote (e); and in (f), in the third sentence, added "or" at the end.

SECTION 38-53-180. Receipt for collateral required.

When a professional or surety bondsman accepts collateral, he shall give a written receipt for the collateral. This receipt shall give in detail a full description of the collateral received.

HISTORY: Former 1976 Code Section 38-63-190 [1985 Act No. 189, Section 1] recodified as Section 38-53-180 by 1987 Act No. 155, Section 1; 1998 Act No. 425, Section 2.

SECTION 38-53-190. Certain persons not allowed to be surety; exceptions.

No sheriff, deputy sheriff, other law enforcement officer, judicial official, attorney, parole officer, probation officer, jailer, assistant jailer, employee of any court of this State, or other public employee assigned to duties relating to the administration of the court may become a surety on a bail bond for any person. No person covered by this section may act as agent for any bonding company or professional bondsman, nor may he have an interest, directly or indirectly, in the financial affairs of any firm or corporation whose principal business is acting as bondsmen. Nothing in this section prohibits any person designated above from being a surety upon the bond of his spouse, parent, brother, sister, child, or descendant.

HISTORY: Former 1976 Code Section 38-63-200 [1985 Act No. 189, Section 1] recodified as Section 38-53-190 by 1987 Act No. 155, Section 1; 1998 Act No. 425, Section 2.

SECTION 38-53-200. Power of attorney.

A professional or surety bondsman may not sign or countersign blank bail bonds, nor may he give a power of attorney to, or otherwise authorize, anyone to countersign his name to bonds unless the authorized person is a licensed bondsman or runner directly employed by the bondsman giving power of attorney. Copies of all the powers of attorney and revocations of the powers of attorney must be filed immediately with the department and the clerk of the circuit court of the county in the state where the bondsman giving the power of attorney is currently writing or is obligated on bail bonds.

HISTORY: Former 1976 Code Section 38-63-210 [1985 Act No. 189, Section 1] recodified as Section 38-53-200 by 1987 Act No. 155, Section 1; 1993 Act No. 181, Section 697; 1998 Act No. 425, Section 2; 1999 Act No. 127, Section 2.

SECTION 38-53-210. Insurers shall supply list of surety bondsmen; termination of appointment.

Each insurer appointing surety bondsmen, shall, prior to July first of each year, furnish the clerk of court a list of all surety bondsmen appointed by the insurer to write bail bonds on its behalf. Each insurer who subsequently appoints a surety bondsman in the State shall give notice of the appointment to the director or his designee and clerk of court of any county where the bondsman is doing business. All appointments are subject to the issuance of the proper insurance agent's license to the appointee.

An insurer terminating the appointment of a surety bondsman shall file written notice of the termination with the department, together with a statement that it has given or mailed notice to the surety bondsman and to the clerks of the circuit courts of the counties in the State where the insurer has been obligated on bail bonds through the agent within the past three years. Notice filed with the department shall state the reasons, if any, for termination. Information so furnished the director or his designee is privileged and may not be used as evidence in, or as the basis for, any action against the insurer or any of its representatives. All bonds written by a surety bondsman shall have attached the individual power of attorney in the amount of the bond.

HISTORY: Former 1976 Code Section 38-63-220 [1985 Act No. 189, Section 1] recodified as Section 38-53-210 by 1987 Act No. 155, Section 1; 1993 Act No. 181, Section 698; 1998 Act No. 425, Section 2.

SECTION 38-53-220. Requirement upon professional or surety bondsmen who discontinue writing bail bonds.

A professional or surety bondsman who discontinues writing bail bonds during the period for which he is licensed shall notify the clerks of the circuit courts with whom he is registered and return his license to the director or his designee for cancellation within thirty days after discontinuance.

HISTORY: Former 1976 Code Section 38-63-230 [1985 Act No. 189, Section 1] recodified as Section 38-53-220 by 1987 Act No. 155, Section 1; 1993 Act No. 181, Section 699; 1998 Act No. 425, Section 2.

SECTION 38-53-230. Professional bondsmen to supply list of runners; termination of appointment.

Every person licensed as a professional bondsman may appoint as runner any person who has been issued a runner's license. Each bondsman shall before July second of each year furnish to the clerk of court of each county where he is doing business and the director or his designee a list of all runners appointed by him. Each bondsman who, subsequent to the filing of this list, appoints additional persons as runners shall file written notice with the clerk of court of each county where he is doing business and the director or his designee of the appointment.

A bondsman terminating the appointment of a runner shall file written notice of the termination with the clerk of court and the director or his designee together with a statement that he has given or mailed notice to the runner. Notice filed with the clerk of court and the director or his designee shall state the reasons, if any, for termination. Information so furnished the director or his designee is privileged and may not be used as evidence in any action against the bondsman.

HISTORY: Former 1976 Code Section 38-63-240 [1985 Act No. 189, Section 1] recodified as Section 38-53-230 by 1987 Act No. 155, Section 1; 1993 Act No. 181, Section 700; 1998 Act No. 425, Section 2.

SECTION 38-53-240. Substitution of bail by sureties.

If money or bonds have been deposited, bail by sureties may be substituted for deposit at any time before a breach of the undertaking by filing a new undertaking with the court executed by the defendant and the sureties. The official taking the new bail shall make an order that the money or bonds be refunded to the person depositing them. They must be refunded accordingly, and the original undertakings must be canceled.

HISTORY: Former 1976 Code Section 38-63-250 [1985 Act No. 189, Section 1] recodified as Section 38-53-240 by 1987 Act No. 155, Section 1; 1998 Act No. 425, Section 2.

SECTION 38-53-250. Requirements for discharge of custody; substitution of undertaking.

When the defendant has been admitted to bail, he, or another in his behalf, may deposit with an official authorized to take bail a sum of money or nonregistered bonds of the United States, of the State, or of any county, city, or town within the State, equal in market value to the amount of the bail, together with his personal undertaking, and an undertaking of any other person, if the money or bonds are deposited by that person. Upon delivery to the official, in whose custody the defendant is, of a certificate of deposit, he must be discharged from custody.

When bail other than a deposit of money or bonds has been given, the defendant or the surety may, at any time before a breach of the undertaking, deposit the sum mentioned in the undertaking, and, upon deposit being made, accompanied by a new undertaking, the original undertaking is canceled.

HISTORY: Former 1976 Code Section 38-63-260 [1985 Act No. 189, Section 1] recodified as Section 38-53-250 by 1987 Act No. 155, Section 1; 1998 Act No. 425, Section 2.

SECTION 38-53-260. Registration of license and power of appointment.

No professional or surety bondsman may become a surety on an undertaking unless he has registered his current license in the office of the clerk of the circuit court in the county in which he resides and registered a certified copy of the license with the clerk of the circuit court in any other county in which he writes bail bonds.

A surety bondsman shall also annually register a certified copy of his current power of appointment with the clerk of the circuit court where he resides and in any other county where he writes bail bonds on behalf of an insurer.

HISTORY: Former 1976 Code Section 38-63-270 [1985 Act No. 189, Section 1] recodified as Section 38-53-260 by 1987 Act No. 155, Section 1; 1998 Act No. 425, Section 2.

SECTION 38-53-270. Professional bondsmen required to maintain security deposits with clerk of court.

Each professional bondsman acting as surety on bail bonds in this State shall maintain security deposits with the clerk of court of the county in which the bondsman has his primary place of business equal to at least one-fourth of the amount of all bonds or undertakings written in this State on which he is absolutely or conditionally liable as of the first day of the current month. A minimum of ten thousand dollars of this collateral shall be in the form of cash deposited with the clerk of court or certificates of deposit pledged to the clerk of court. Any remaining collateral shall be pledges of real estate, the value of which shall be based upon the appraised value by the county tax assessor. The real estate shall be free and clear of any encumbrances based upon a title opinion furnished to the clerk of court by the bondsman.

HISTORY: Former 1976 Code Section 38-63-280 [1985 Act No. 189, Section 1] recodified as Section 38-53-270 by 1987 Act No. 155, Section 1; 1995 Act No. 118, Section 1; 1998 Act No. 425, Section 2.

SECTION 38-53-280. Securities held in trust.

The securities deposited by a professional bondsman with the clerk of court must be held in trust for the sole protection and benefit of the holder of bail bonds executed by or on behalf of the undersigned bondsman in this State. A pro rata portion of the securities must be returned to the bondsman when the clerk of court is satisfied that the deposit of securities is in excess of the amount required to be maintained with him by the bondsman. All the securities must be returned if the clerk of court is satisfied that the bondsman has satisfied, or satisfactory arrangements have been made to satisfy, the obligations of the bondsman on all of his bail bonds written in the State. The clerk of court may sell or transfer any of the securities or utilize the proceeds of the securities for the purpose of satisfying the liabilities of the professional bondsman on bail bonds given in this State on which he is liable.

HISTORY: Former 1976 Code Section 38-63-290 [1985 Act No. 189, Section 1] recodified as Section 38-53-280 by 1987 Act No. 155, Section 1; 1998 Act No. 425, Section 2.

SECTION 38-53-290. Professional bondsman shall deliver power of attorney to clerk of court; form.

With the securities deposited with the clerk of court, the professional bondsman shall at the same time deliver to the clerk of court a power of attorney on a form supplied by the clerk of court, executed and acknowledged by the professional bondsman, authorizing the sale or transfer of the securities or any part of the securities. The power of attorney must read as follows:

"Know all men by these presents that I, _____, a professional bondsman, located in the County of _____, in the State of _____, do authorize and appoint for myself and my successors, heirs, and assigns the clerk of court of this county, in the name and in behalf of myself as professional bondsman, my attorney to sell or transfer any securities deposited or that may be deposited by me as professional bondsman with the clerk of court, under the laws and regulations requiring a deposit of securities to be made by professional bondsmen doing business in the State of South Carolina if the sale or transfer is considered necessary by the clerk of court to pay any liability arising under a bond which purports to be given by the undersigned bondsman in any county in this State, and execution has been issued against me as bondsman pursuant to a judgment on the bond, and the judgment has not been satisfied. The securities so deposited are to be held in trust by the clerk of court for the sole protection and benefit of the holder of bail bonds executed by or on behalf of the undersigned bondsman.

In witness whereof, I have set my hand and affixed my seal this ___ day of _____, 19__.
_ (L.S.)
Notary Public

My commission expires:
_____."

HISTORY: Former 1976 Code Section 38-63-300 [1985 Act No. 189, Section 1] recodified as Section 38-53-290 by 1987 Act No. 155, Section 1; 1998 Act No. 425, Section 2.

SECTION 38-53-300. Reduction in value of securities.

A professional bondsman whose security deposits with the clerk of court are reduced in value below the requirements of Section 38-53-270 shall, immediately upon notice of the deficiency, pledge with the court the additional collateral necessary to comply with Section 38-53-270. No professional bondsman may sign, endorse, execute, or become a surety on any additional bail bonds in any county in this State until he has made the additional deposit of securities as required by the notice of deficiency. The clerk of court has the authority to suspend bonding privileges until the bondsman complies with Section 38-53-270. If the bondsman has any outstanding forfeitures including, but not limited to, license fees and bond estreatments, the clerk of court has the authority to suspend bonding privileges until the bondsman complies with this

section. The clerk shall immediately notify all parties who were originally notified of the suspension of the bondsman's compliance with this section.

HISTORY: Former 1976 Code Section 38-63-310 [1985 Act No. 189, Section 1] recodified as Section 38-53-300 by 1987 Act No. 155, Section 1; 1998 Act No. 425, Section 2.

SECTION 38-53-310. Bail bond reports.

(A) Each professional bondsman shall by the fifteenth of each month file with the clerk of court of the county of his principal place of business and any other county where he is doing business a written report in a form prescribed by the director or his designee regarding all bail bonds on which he is liable as of the first day of each month.

(B) Each surety bondsman shall, within thirty days of executing a bail bond, file with their respective insurance provider a written or electronic report in a form approved by the director or his designee detailing all bail bonds on which he has cause to be executed.

(C) The reports referenced in subsections (A) and (B) shall include the following:

- (1) each individual bonded;
- (2) the date the bond was given;
- (3) the principal sum of the bond;
- (4) the state or local official with whom the bond was filed;
- (5) the fee charged for the bonding service in each instance;
- (6) all pending bonds; and
- (7) any current data on monies to be collected and retained as an express condition of the bond, whether for electronic monitoring or otherwise.

(D) In lieu of the monthly submission of a written report to the clerk of court, the bondsman may utilize a data management software system, which contains the above required current information, and is capable of providing the appropriate clerk of court or his designee with real-time access to the data management system through a portal, website, or other data access system through which the clerk of court can confirm he has access to the required information.

HISTORY: Former 1976 Code Section 38-63-320 [1985 Act No. 189, Section 1] recodified as Section 38-53-310 by 1987 Act No. 155, Section 1; 1993 Act No. 181, Section 701; 1998 Act No. 425, Section 2; 2023 Act No. 83 (H.3532), Section 17, eff June 20, 2023.

Effect of Amendment

2023 Act No. 83, Section 17, rewrote the section.

SECTION 38-53-320. Examination by professional and surety bondsman.

Whenever the director or his designee considers it necessary, he shall visit and examine or cause to be visited and examined by some competent person appointed by him for that purpose any professional bondsman subject to the provisions of this chapter. For this purpose, the director or his designee or person making the examination has free access to all books and papers of the bondsman that relate to his business and to the books and papers kept by any of his agents or runners.

HISTORY: Former 1976 Code Section 38-63-330 [1985 Act No. 189, Section 1] recodified as Section 38-53-320 by 1987 Act No. 155, Section 1; 1993 Act No. 181, Section 702; 1998 Act No. 425, Section 2.

SECTION 38-53-330. Limitations on acting as surety.

No professional bondsman may act as a surety on any bail bond whose principal sum is in excess of one-half of the value of the securities deposited with the clerk of court at that time.

HISTORY: Former 1976 Code Section 38-63-340 [1985 Act No. 189, Section 1] recodified as Section 38-53-330 by 1987 Act No. 155, Section 1; 1998 Act No. 425, Section 2.

SECTION 38-53-340. Penalty for violation of chapter.

A person violating any of the provisions of this chapter is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned for not more than thirty days, or both.

HISTORY: Former 1976 Code Section 38-63-350 [1985 Act No. 189, Section 1] recodified as Section 38-53-340 by 1987 Act No. 155, Section 1; 1988 Act No. 374, Section 24; 1998 Act No. 425, Section 2.