

17:31-10

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2003 **CHAPTER:** 202

NJSA: 17:31-10 (Revises procedures for bail bonds)

BILL NO: A3012 (Substituted for S2372)

SPONSOR(S): Cohen and Bateman

DATE INTRODUCED November 25, 2002

COMMITTEE: **ASSEMBLY:** Banking and Insurance

SENATE: ---

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** June 30, 2003

SENATE: December 11, 2003

DATE OF APPROVAL: January 2, 2004

FOLLOWING ARE ATTACHED IF AVAILABLE:

[FINAL TEXT OF BILL](#) (2nd reprint enacted)
(Amendments during passage denoted by superscript numbers)

A3012

[SPONSOR'S STATEMENT:](#) (Begins on page 3 of original bill) [Yes](#)

COMMITTEE STATEMENT: **ASSEMBLY:** [Yes](#)

SENATE: No

FLOOR AMENDMENT STATEMENTS: Yes [5-15-2003](#)
[6-23-2003](#)

LEGISLATIVE FISCAL ESTIMATE: No

S2372

[SPONSOR'S STATEMENT:](#) (Begins on page 3 of original bill) [Yes](#)

Bill and Sponsors Statement identical to A3012

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: [Yes](#)

[FLOOR AMENDMENT STATEMENT:](#) [Yes](#)

Identical to A3012 floor statement dated 6-23-2003

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

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REPORTS:

No

HEARINGS:

No

NEWSPAPER ARTICLES:

No

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Updated: 08/23/05

P.L. 2003, CHAPTER 202, *approved January 2, 2004*
Assembly, No. 3012 (*Second Reprint*)

1 AN ACT concerning the issuance of bail bonds by surety companies.

2

3 **BE IT ENACTED** by the Senate and General Assembly of the State
4 of New Jersey:

5

6 1. As used in this act:

7 ¹["Agency" means an entity that in any manner negotiates, solicits
8 or effects a bail bond or is affiliated in any manner with the execution
9 of a bail bond.]¹

10 "Bail agent ¹or agency¹" means any person ¹[who] or entity that
11 solicits, negotiates or sells bail bonds, or is affiliated in any manner
12 with the execution of bail and¹ is licensed as a limited lines insurance
13 producer pursuant to P.L.2001, c.210 (C.17:22A-26 et seq.) ¹, an
14 insurance producer or a limited insurance representative¹.

15 "Commissioner" means the Commissioner of Banking and
16 Insurance.

17 "Surety company" means an insurer authorized to transact surety
18 business in this State.

19

20 ²[2. a. For every bail bond posted for the release of a defendant
21 from custody or incarceration, the surety company, and its agents or
22 employees, ¹its bail agents or agencies¹ shall charge and collect a fee
23 in the amount of 10 percent of the face amount of the bond or \$125,
24 whichever is greater, as the premium for executing the bail bond, prior
25 to or at the time of the filing of the bail bond. The bail agent ¹[who]
26 or agency that¹ executes the bail bond shall ¹[file an affidavit, as
27 approved by the commissioner, with the Superior Court] , at the time
28 the bond is posted, attest in writing to the appropriate court¹ or other
29 agency authorized to accept bail bonds, ¹[upon the execution of the
30 bail bond, attesting]¹ that the full premium has been collected.
31 ¹Nothing in this section shall be construed to preclude a person from
32 obtaining premium financing, pursuant to P.L.1968, c.221 (C.17:16D-
33 1 et seq.), to facilitate the payment of the full bail bond premium. No
34 surety company or its agents or employees, or its bail agents or
35 agencies, shall have any financial affiliation with, indemnify, or receive
36 any compensation from any premium financing company that is
37 licensed to finance any part of a premium for executing a bail bond.¹

38 b. A bail agent ¹[who] or agency that¹ purposely or knowingly

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly floor amendments adopted May 15, 2003.

² Assembly floor amendments adopted June 23, 2003.

1 executes a bail bond for the release of a defendant from custody or
2 incarceration without collecting the full premium for the bail bond as
3 set forth in subsection a. of this section, ¹[at or]¹ prior to ¹or at¹ the
4 time of the ¹[filing] posting¹ of the bail bond with the ¹appropriate¹
5 court or other agency authorized to accept bail bonds, commits a
6 crime of the fourth degree.

7 c. The commissioner, after notice and ¹an opportunity for¹ a
8 hearing, shall suspend the authority of the bail agent ¹[convicted of a
9 violation of this section to execute bail bonds or be employed by or
10 represent in any capacity a surety company that executes bail bonds
11 for] or agency found to have violated this section to negotiate, solicit
12 or sell bail bonds, or be affiliated in any manner with the execution of
13 bail bonds, in this State for up to¹ 90 days for a first violation, ¹up to¹
14 180 days for a second violation, and ¹up to¹ one year for a third
15 violation. For any subsequent violation, the ¹[authority] insurance
16 producer license¹ of the bail agent ¹[to execute bail bonds, or be
17 employed by or represent in any capacity a company that executes bail
18 bonds in this State,] or agency¹ shall be ¹[permanently]¹ revoked ¹for
19 a ten-year period, unless the commissioner finds that there are
20 substantial mitigating factors such that a lesser penalty is appropriate¹.

21 d. In addition to the fines and penalties imposed against a bail
22 agent ¹[convicted of a violation] or agency found to have violated the
23 provisions¹ of subsection a. of this section, the commissioner shall
24 impose a ¹[\$10,000]¹ fine ¹[against] of \$1,000 for a first violation
25 and \$2,000 for each subsequent violation on¹ the bail agent ¹[, the
26 surety company and the agency which licensed or employed the bail
27 agent] , agency or surety company, unless the commissioner finds that
28 there are substantial mitigating factors such that a lesser penalty is
29 appropriate¹ .

30 e. For purposes of this section, each violation constitutes a
31 separate offense.]²

32
33 ²[3.] 2.² a. ¹[If a surety company is precluded from writing bail
34 bonds by the Clerk of the Superior Court for failing to satisfy a
35 judgment or order entered against it pursuant to the Rules Governing
36 the Courts of the State of New Jersey, the commissioner shall conduct
37 a hearing within 45 days of the date of the order. The surety
38 company, the agency and the bail agent that executed, posted or was
39 in anyway responsible for the bail bond resulting in the judgment or
40 order, shall be notified at least 25 days prior to the hearing and may
41 attend to present evidence to show the order was entered in error. If
42 the commissioner finds that the order was not entered in error, the
43 license of the surety company, the agency and the bail agent to execute
44 bail bonds, or be affiliated in any manner with the execution of bail
45 bonds, in this State shall be suspended for 90 days for a first violation,

1 180 days for a second violation and one year for a third violation. The
2 suspension shall take effect upon satisfaction of any of the judgments
3 and orders.] Upon receipt of a certification from the Clerk of the
4 Superior Court stating that a bail agent or agency has failed to provide
5 full, accurate and truthful information to the Clerk of the Superior
6 Court as required by section ²[5] ⁴ of this act, or has failed to satisfy
7 a judgment or judgments for forfeited bail, the commissioner shall
8 notify the bail agent or agency that its authority to negotiate, solicit or
9 sell bail bonds, or be affiliated in any manner with the execution of bail
10 bonds in this State shall be temporarily suspended. Upon receipt of a
11 certification from the Clerk of the Superior Court that a surety
12 company has failed to register or provide full, accurate and truthful
13 information to the Clerk of the Superior Court, as required by section
14 ²[5] ⁴ of this act or has failed to satisfy a judgment for forfeited bail,
15 the commissioner may temporarily suspend the surety company's
16 authority to negotiate, solicit or sell bail bonds, or be affiliated in any
17 manner with the execution of bail bonds in this State. The temporary
18 suspensions imposed in accordance with this section shall remain in
19 effect until the Clerk of the Superior Court notifies the commissioner
20 that the surety company or bail agent or agency has properly
21 registered and has provided information in accordance with section
22 ²[5] ⁴ of this act or has satisfied the judgment or judgments for
23 forfeited bail.¹

24 b. In addition to any ¹temporary¹ suspension imposed pursuant to
25 subsection a. of this section, the commissioner ¹, after notice and an
26 opportunity for a hearing,¹ shall impose a fine against the surety
27 company, ¹[the agency, and the]¹ bail agent ¹or agency¹ in ¹[the] an¹
28 amount of ¹up to¹ \$10,000 for a first violation, ¹up to¹ \$25,000 for a
29 second violation and ¹up to¹ \$100,000 for a third or subsequent
30 violation ¹for failure to register or provide full, accurate and truthful
31 information to the Clerk of the Superior Court, as required by section
32 ²[5] ⁴ of this act or for failure to satisfy a judgment or judgments for
33 forfeited bail¹.

34 c. ¹[The surety company, the agency and the bail agent shall be
35 required to pay all judgments or orders entered and fines imposed
36 prior to resuming the execution of bail bonds.] The commissioner
37 shall not restore the surety company's authority to negotiate, solicit or
38 sell bail bonds, or be affiliated in any manner with the execution of bail
39 bonds in this State, until the surety company has demonstrated that it
40 has satisfied all judgments or court orders related to forfeited bail and
41 has paid all fines imposed pursuant to this act.

42 d. Nothing in this act shall be construed to limit, preclude or
43 otherwise adversely affect the commissioner's ability to pursue
44 enforcement actions against the surety company, bail agent or agency
45 resulting from violations of the insurance laws arising from the breach
46 of the duties owed to the courts as provided in subsection a. of this

1 section.¹

2

3 ²[4.] 3.² Whenever a surety company, ¹or bail agent¹ or agency
4 acting on its behalf, files an appeal in the Superior Court of New
5 Jersey, Appellate Division, or the Supreme Court of New Jersey, from
6 a judgment or order entered ¹against it by a court to enforce the
7 forfeiture of a bail bond pursuant to the Rules Governing the Courts
8 of the State of New Jersey¹, the surety company shall deposit the full
9 amount of the order or judgment in cash or by certified, cashiers or
10 bank check with the Clerk of the Superior Court or Supreme Court,
11 as appropriate. ²The court may allow the posting of a supersedeas
12 bond, in a form approved by the court, upon the showing of good
13 cause; provided, however, that good cause shall not mean an
14 application by a surety to extend the time to forfeit a bond, to stay
15 payment of a forfeiture of default judgment, or to extend the time to
16 locate a defendant.²

17

18 ¹ ²[5.] 4.² a. A surety company shall register with the Clerk of the
19 Superior Court the name and address of each bail agent or agency
20 authorized by the surety company to write bail. The surety company
21 shall provide written notice to the Clerk of the Superior Court when
22 any bail agent or agency authorized to write bail is terminated or is no
23 longer authorized by the surety company to write bail.

24 b. With respect to each bail agent or agency set forth in subsection
25 a. of this section, the surety company shall disclose the name and
26 address of any bail agent or agency that has provided a guarantee to
27 the surety company for the satisfaction of any forfeited bail or bail
28 forfeiture judgments entered against that surety company written by
29 such bail agent or agency. The registration and disclosure shall
30 include a certification by each listed bail agent or agency stating that
31 the information provided is true and accurate.

32 c. Any surety company, or bail agent or agency, failing to register
33 with the Clerk of the Superior Court, or failing to provide full,
34 accurate and truthful information to the Clerk of the Superior Court,
35 in accordance with the provisions of subsections a. and b. of this
36 section shall be subject to the penalties set forth in section ²[3] 2² of
37 this act.

38 d. In addition to the information required in subsections a. and b.
39 of this section, surety companies and bail agents or agencies shall
40 provide any other information that the Rules Governing the Courts of
41 the State of New Jersey may require.¹

42

43 ²[6.] 5.² Nothing in this act shall be construed to limit, prohibit or
44 otherwise adversely affect the authority of the Supreme Court of New
45 Jersey to adopt rules or issue directives or procedures to preclude a
46 surety company, or its bail agents or agencies, from negotiating.

1 soliciting or selling bail bonds on behalf of any defendant charged with
2 a criminal or quasi-criminal offense pending in the Superior Court or
3 in a municipal court of this State.¹

4

5 ²[7.] 6.² The commissioner may promulgate rules and regulations
6 in accordance with the provisions of the "Administrative Procedure
7 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to effectuate
8 the purposes of this act.¹

9

10 ²[8.] 7.² This act shall take effect ¹[on the 180th day following
11 enactment] immediately¹.

12

13

14

15

16 Revises procedures for issuance of bail bonds in this State.

ASSEMBLY, No. 3012

STATE OF NEW JERSEY

210th LEGISLATURE

INTRODUCED NOVEMBER 25, 2002

Sponsored by:

Assemblyman NEIL M. COHEN

District 20 (Union)

Assemblyman CHRISTOPHER "KIP" BATEMAN

District 16 (Morris and Somerset)

SYNOPSIS

Revises procedures for issuance of bail bonds in this State.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 2/5/2003)

1 AN ACT concerning the issuance of bail bonds by surety companies.

2

3 **BE IT ENACTED** *by the Senate and General Assembly of the State*
4 *of New Jersey:*

5

6 1. As used in this act:

7 "Agency" means an entity that in any manner negotiates, solicits or
8 effects a bail bond or is affiliated in any manner with the execution of
9 a bail bond.

10 "Bail agent" means any person who is licensed as a limited lines
11 insurance producer pursuant to P.L.2001, c.210 (C.17:22A-26 et
12 seq.).

13 "Commissioner" means the Commissioner of Banking and
14 Insurance.

15 "Surety company" means an insurer authorized to transact surety
16 business in this State.

17

18 2. a. For every bail bond posted for the release of a defendant
19 from custody or incarceration, the surety company, and its agents or
20 employees, shall charge and collect a fee in the amount of 10 percent
21 of the face amount of the bond or \$125, whichever is greater, as the
22 premium for executing the bail bond, prior to or at the time of the
23 filing of the bail bond. The bail agent who executes the bail bond shall
24 file an affidavit, as approved by the commissioner, with the Superior
25 Court or other agency authorized to accept bail bonds, upon the
26 execution of the bail bond, attesting that the full premium has been
27 collected.

28 b. A bail agent who purposely or knowingly executes a bail bond
29 for the release of a defendant from custody or incarceration without
30 collecting the full premium for the bail bond as set forth in subsection
31 a. of this section, at or prior to the time of the filing of the bail bond
32 with the court or other agency authorized to accept bail bonds,
33 commits a crime of the fourth degree.

34 c. The commissioner, after notice and a hearing, shall suspend the
35 authority of the bail agent convicted of a violation of this section to
36 execute bail bonds or be employed by or represent in any capacity a
37 surety company that executes bail bonds for 90 days for a first
38 violation, 180 days for a second violation, and one year for a third
39 violation. For any subsequent violation, the authority of the bail agent
40 to execute bail bonds, or be employed by or represent in any capacity
41 a company that executes bail bonds in this State, shall be permanently
42 revoked.

43 d. In addition to the fines and penalties imposed against a bail
44 agent convicted of a violation of subsection a. of this section, the
45 commissioner shall impose a \$10,000 fine against the bail agent, the
46 surety company and the agency which licensed or employed the bail
47 agent.

1 e. For purposes of this section, each violation constitutes a
2 separate offense.

3
4 3. a. If a surety company is precluded from writing bail bonds by
5 the Clerk of the Superior Court for failing to satisfy a judgment or
6 order entered against it pursuant to the Rules Governing the Courts of
7 the State of New Jersey, the commissioner shall conduct a hearing
8 within 45 days of the date of the order. The surety company, the
9 agency and the bail agent that executed, posted or was in anyway
10 responsible for the bail bond resulting in the judgment or order, shall
11 be notified at least 25 days prior to the hearing and may attend to
12 present evidence to show the order was entered in error. If the
13 commissioner finds that the order was not entered in error, the license
14 of the surety company, the agency and the bail agent to execute bail
15 bonds, or be affiliated in any manner with the execution of bail bonds,
16 in this State shall be suspended for 90 days for a first violation, 180
17 days for a second violation and one year for a third violation. The
18 suspension shall take effect upon satisfaction of any of the judgments
19 and orders.

20 b. In addition to any suspension imposed pursuant to subsection a.
21 of this section, the commissioner shall impose a fine against the surety
22 company, the agency, and the bail agent in the amount of \$10,000 for
23 a first violation, \$25,000 for a second violation and \$100,000 for a
24 third or subsequent violation.

25 c. The surety company, the agency and the bail agent shall be
26 required to pay all judgments or orders entered and fines imposed
27 prior to resuming the execution of bail bonds.

28
29 4. Whenever a surety company, or agency acting on its behalf, files
30 an appeal in the Superior Court of New Jersey, Appellate Division, or
31 the Supreme Court of New Jersey, from a judgment or order entered,
32 the surety company shall deposit the full amount of the order or
33 judgment in cash or by certified, cashiers or bank check with the Clerk
34 of the Superior Court or Supreme Court, as appropriate.

35
36 5. This act shall take effect on the 180th day following enactment.
37
38

39 STATEMENT
40

41 This bill revises certain procedures with respect to the issuance of
42 bail bonds in this State.

43 The bill requires a surety company to charge and collect a fee in the
44 amount of 10 percent of the face amount of the bond as the premium
45 for executing the bail bond, prior to or at the time of the filing of the
46 bail bond, and imposes a minimum fee of \$125 for executing any bail

1 bond. Under the bill, the bail agent executing the bail bond is required
2 to file an affidavit with the Superior Court or other agency authorized
3 to accept bail bonds attesting that the full premium has been collected.
4 A bail agent who purposely or knowingly violates this provision
5 commits a crime of the fourth degree.

6 In addition to license suspension and revocation of the bail agent,
7 the bill also imposes a minimum \$10,000 fine against the bail agent,
8 surety company and agency that licensed or employed the bail agent,
9 for violation of the provisions of the bill.

10 The bill also provides for the imposition of monetary fines against
11 a surety company that fails to satisfy a judgment or order entered
12 against it by the Superior Court and suspension by the Commissioner
13 of Banking and Insurance of the company's license to do business in
14 New Jersey, for up to one year.

15 Finally, the bill establishes that a surety company that appeals the
16 entry of a judgment or order entered against it shall deposit the full
17 amount of that order or judgment in cash or by certified, cashiers or
18 bank check with the court.

ASSEMBLY BANKING AND INSURANCE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3012

STATE OF NEW JERSEY

DATED: FEBRUARY 3, 2003

The Assembly Banking and Insurance Committee reports favorably Assembly Bill No. 3012.

This bill revises certain procedures with respect to the issuance of bail bonds in this State.

The bill requires a surety company that issues bail bonds in this State to charge and collect a fee in the amount of 10 percent of the face amount of the bond or a minimum fee of \$125 as the premium for executing the bail bond, prior to or at the time of the filing of the bail bond. Under the bill, the bail agent executing the bail bond is required to file an affidavit with the Superior Court or other agency authorized to accept bail bonds attesting that the full premium has been collected. The bill provides that a bail agent who purposely or knowingly violates this provision commits a crime of the fourth degree.

The bill defines "agency" as an entity that in any manner negotiates, solicits or effects a bail bond or is affiliated in any manner with the execution of a bail bond and "bail agent" as any person who is licensed as a limited lines insurance producer pursuant to P.L.2001, c.210 (C.17:22A-26 et seq.).

The bill requires the Commissioner of Banking and Insurance, after notice and a hearing, to suspend the authority of any bail agent who violates the provisions of the bill to execute bail bonds or be employed by or represent in any capacity a surety company that executes bail bonds for 90 days for a first violation, 180 days for a second violation, and one year for a third violation. For any subsequent violation, the authority of the bail agent to execute bail bonds, or be employed by or represent in any capacity a company that executes bail bonds in this State, shall be permanently revoked. The bill also authorizes the commissioner to impose a \$10,000 fine against the bail agent, the surety company and the agency which licensed or employed the bail agent for a violation.

Under the bill, if a surety company is precluded from writing bail bonds by the Clerk of the Superior Court for failing to satisfy a judgment or order entered against it, the commissioner shall conduct a hearing within 45 days of the date of the order to determine whether the order was entered in error. The bill provides that if the order was not entered in error, the license of the surety company to do business, the agency and the bail agent to execute bail bonds, or be affiliated in

any manner with the execution of bail bonds, in this State shall be suspended for 90 days for a first violation, 180 days for a second violation and one year for a third violation. The suspension shall take effect upon satisfaction of any of the judgments and orders. In addition, the bill authorizes the commissioner to impose a fine against the surety company, the agency, and the bail agent in the amount of \$10,000 for a first violation, \$25,000 for a second violation and \$100,000 for a third or subsequent violation of the provisions of the bill. A surety company, the agency and the bail agent are required under the bill to pay all judgments or orders entered and fines imposed prior to resuming the business of the execution of bail bonds.

Finally, the bill provides that a surety company that appeals the entry of a judgment or order entered against it shall deposit the full amount of that order or judgment in cash or by certified, cashiers or bank check with the court.

STATEMENT TO
ASSEMBLY, No. 3012

with Assembly Floor Amendments
(Proposed By Assemblyman COHEN)

ADOPTED: MAY 15, 2003

These amendments:

Delete the definition of "agency" and revise the definition of "bail agent or agency" to mean any person or entity that solicits, negotiates or sells bail bonds, or is affiliated in any manner with the execution of bail and is licensed as a limited lines insurance producer pursuant to P.L.2001, c.210 (C.17:22A-26 et seq.), an insurance producer or a limited insurance representative;

Require a bail agent or agency executing bail bonds to attest in writing to the appropriate court or other agency authorized to accept bail bonds that the full premium has been collected and revises the penalties that may be imposed by the Commissioner of Banking and Insurance for failure to comply with this requirement;

Establish that a surety company, bail agent or agency is required to register certain information with the Clerk of the Superior Court and provides for license suspension or revocation and monetary penalties for failure to comply with this requirement; and

Provide that upon receipt of a certification from the Clerk of the Superior Court that a surety company, bail agent or agency has failed to register or provide full, accurate and truthful information to the Clerk, or to satisfy a judgment for forfeited bail, the commissioner may impose monetary fines and a temporary suspension of the authority of the surety company, bail agent or agency to negotiate, solicit or sell bail bonds, or be affiliated in any manner with the execution of bail bonds in this State, which suspension shall remain in effect until the Clerk of the Superior Court notifies the commissioner that the surety company, bail agent or agency has properly registered and has provided the information or has satisfied the judgement or judgments for forfeited bail.

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 3012

with Assembly Floor Amendments
(Proposed By Assemblyman COHEN)

ADOPTED: JUNE 23, 2003

These amendments delete section 2 of the bill which required a surety company, and its agents or employees, bail agents or agencies that issue bail bonds in this State to charge and collect a fee in the amount of 10 percent of the face amount of the bond or a minimum fee of \$125 as the premium for executing the bail bond, prior to or at the time of the filing of the bail bond and imposed penalties for failure to follow those provisions.

The amendments also provide that the court may allow the posting of a supersedeas bond, in a form approved by the court, upon the showing of good cause; provided, however, that good cause shall not mean an application by a surety to extend the time to forfeit a bond, to stay payment of a forfeiture of default judgment, or to extend the time to locate a defendant.

SENATE, No. 2372

STATE OF NEW JERSEY
210th LEGISLATURE

INTRODUCED MARCH 10, 2003

Sponsored by:

Senator PETER A. INVERSO

District 14 (Mercer and Middlesex)

Senator JOHN A. GIRGENTI

District 35 (Bergen and Passaic)

SYNOPSIS

Revises procedures for issuance of bail bonds in this State.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/9/2003)

S2372 INVERSO, GIRGENTI

2

1 AN ACT concerning the issuance of bail bonds by surety companies.

2

3 **BE IT ENACTED** *by the Senate and General Assembly of the State*
4 *of New Jersey:*

5

6 1. As used in this act:

7 "Agency" means an entity that in any manner negotiates, solicits or
8 effects a bail bond or is affiliated in any manner with the execution of
9 a bail bond.

10 "Bail agent" means any person who is licensed as a limited lines
11 insurance producer pursuant to P.L.2001, c.210 (C.17:22A-26 et
12 seq.).

13 "Commissioner" means the Commissioner of Banking and
14 Insurance.

15 "Surety company" means an insurer authorized to transact surety
16 business in this State.

17

18 2. a. For every bail bond posted for the release of a defendant
19 from custody or incarceration, the surety company, and its agents or
20 employees, shall charge and collect a fee in the amount of 10 percent
21 of the face amount of the bond or \$125, whichever is greater, as the
22 premium for executing the bail bond, prior to or at the time of the
23 filing of the bail bond. The bail agent who executes the bail bond shall
24 file an affidavit, as approved by the commissioner, with the Superior
25 Court or other agency authorized to accept bail bonds, upon the
26 execution of the bail bond, attesting that the full premium has been
27 collected.

28 b. A bail agent who purposely or knowingly executes a bail bond
29 for the release of a defendant from custody or incarceration without
30 collecting the full premium for the bail bond as set forth in subsection
31 a. of this section, at or prior to the time of the filing of the bail bond
32 with the court or other agency authorized to accept bail bonds,
33 commits a crime of the fourth degree.

34 c. The commissioner, after notice and a hearing, shall suspend the
35 authority of the bail agent convicted of a violation of this section to
36 execute bail bonds or be employed by or represent in any capacity a
37 surety company that executes bail bonds for 90 days for a first
38 violation, 180 days for a second violation, and one year for a third
39 violation. For any subsequent violation, the authority of the bail agent
40 to execute bail bonds, or be employed by or represent in any capacity
41 a company that executes bail bonds in this State, shall be permanently
42 revoked.

43 d. In addition to the fines and penalties imposed against a bail
44 agent convicted of a violation of subsection a. of this section, the
45 commissioner shall impose a \$10,000 fine against the bail agent, the
46 surety company and the agency which licensed or employed the bail
47 agent.

1 e. For purposes of this section, each violation constitutes a
2 separate offense.

3
4 3. a. If a surety company is precluded from writing bail bonds by
5 the Clerk of the Superior Court for failing to satisfy a judgment or
6 order entered against it pursuant to the Rules Governing the Courts of
7 the State of New Jersey, the commissioner shall conduct a hearing
8 within 45 days of the date of the order. The surety company, the
9 agency and the bail agent that executed, posted or was in anyway
10 responsible for the bail bond resulting in the judgment or order, shall
11 be notified at least 25 days prior to the hearing and may attend to
12 present evidence to show the order was entered in error. If the
13 commissioner finds that the order was not entered in error, the license
14 of the surety company, the agency and the bail agent to execute bail
15 bonds, or be affiliated in any manner with the execution of bail bonds,
16 in this State shall be suspended for 90 days for a first violation,
17 180 days for a second violation and one year for a third violation. The
18 suspension shall take effect upon satisfaction of any of the judgments
19 and orders.

20 b. In addition to any suspension imposed pursuant to subsection a.
21 of this section, the commissioner shall impose a fine against the surety
22 company, the agency, and the bail agent in the amount of \$10,000 for
23 a first violation, \$25,000 for a second violation and \$100,000 for a
24 third or subsequent violation.

25 c. The surety company, the agency and the bail agent shall be
26 required to pay all judgments or orders entered and fines imposed
27 prior to resuming the execution of bail bonds.

28
29 4. Whenever a surety company, or agency acting on its behalf, files
30 an appeal in the Superior Court of New Jersey, Appellate Division, or
31 the Supreme Court of New Jersey, from a judgment or order entered,
32 the surety company shall deposit the full amount of the order or
33 judgment in cash or by certified, cashiers or bank check with the Clerk
34 of the Superior Court or Supreme Court, as appropriate.

35
36 5. This act shall take effect on the 180th day following enactment.
37
38

39 STATEMENT
40

41 This bill revises certain procedures with respect to the issuance of
42 bail bonds in this State.

43 The bill requires a surety company to charge and collect a fee in the
44 amount of 10 percent of the face amount of the bond as the premium
45 for executing the bail bond, prior to or at the time of the filing of the
46 bail bond, and imposes a minimum fee of \$125 for executing any bail

S2372 INVERSO, GIRGENTI

1 bond. Under the bill, the bail agent executing the bail bond is required
2 to file an affidavit with the Superior Court or other agency authorized
3 to accept bail bonds attesting that the full premium has been collected.
4 A bail agent who purposely or knowingly violates this provision
5 commits a crime of the fourth degree.

6 In addition to license suspension and revocation of the bail agent,
7 the bill also imposes a minimum \$10,000 fine against the bail agent,
8 surety company and agency that licensed or employed the bail agent,
9 for violation of the provisions of the bill.

10 The bill also provides for the imposition of monetary fines against
11 a surety company that fails to satisfy a judgment or order entered
12 against it by the Superior Court and suspension by the Commissioner
13 of Banking and Insurance of the company's license to do business in
14 New Jersey, for up to one year.

15 Finally, the bill establishes that a surety company that appeals the
16 entry of a judgment or order entered against it shall deposit the full
17 amount of that order or judgment in cash or by certified, cashiers or
18 bank check with the court.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 2372

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 15, 2003

The Senate Commerce Committee reports favorably, and with committee amendments, Senate Bill No. 2372.

This bill, as amended by the committee, revises certain procedures with respect to the issuance of bail bonds in this State.

For every bail bond posted for the release of a defendant from custody or incarceration, the bill requires a surety company or bail agent or agency to charge and collect a fee in the amount of 10 percent of the face amount of the bond or a minimum fee of \$125, whichever is greater, as the premium for executing the bail bond, prior to or at the time of the filing of the bail bond. Under the bill, the bail agent or agency executing the bail bond is required to attest in writing to the appropriate court or other agency authorized to accept bail bonds that the full premium has been collected. The bill provides that a bail agent or agency that purposely or knowingly violates this provision commits a crime of the fourth degree. The bill requires the Commissioner of Banking and Insurance, after notice and a hearing, to suspend the authority of any bail agent or agency that violates these provisions of the bill for up to 90 days for a first violation, up to 180 days for a second violation, and up to one year for a third violation. For any subsequent violation, the insurance producer license for the bail agent or agency shall be revoked for a ten-year period, unless there are mitigating factors. The bill also authorizes the commissioner to impose a \$1,000 fine for the first violation and \$2,000 for each subsequent violation against the bail agent or agency or the surety company, unless there are mitigating factors.

The bill defines "bail agent or agency" as any person or entity that solicits, negotiates or sells bail bonds or is affiliated in any manner with the execution of a bail bond.

Upon receipt of a certification from the Clerk of the Superior Court stating that a bail agent or agency has failed to provide full, accurate and truthful information to the Clerk or has failed to satisfy a judgment or judgments for forfeited bail, the commissioner shall notify the bail agent or agency that its authority to negotiate, solicit or sell bail bonds, or be affiliated in any manner with the execution of bail

bonds has been suspended. Upon receipt of a certification from the Clerk of the Superior Court that a surety company has failed to register or provide full, accurate and truthful information to the Clerk or has failed to satisfy a judgment for forfeited bail, the commissioner may temporarily suspend the surety company's authority to negotiate, solicit or sell bail bonds, or be affiliated in any manner with the execution of bail bonds, in this State. The temporary suspensions imposed shall remain in effect until the Clerk of the Superior Court notifies the commissioner that the surety company or bail agent or agency has properly registered and has provided the information or has satisfied the judgment or judgments for forfeited bail. In addition to any temporary suspension imposed, the bill authorizes the commissioner to impose a fine against the surety company or bail agent or agency in the amount of up to \$10,000 for a first violation, up to \$25,000 for a second violation and up to \$100,000 for a third or subsequent violation for failure to register or provide full, accurate and truthful information to the Clerk of the Superior Court or for failure to satisfy a judgment or judgments for forfeited bonds. A surety company or bail agent or agency is required under the bill to pay all judgments or court orders related to forfeited bail and fines imposed prior to resuming the business of the execution of bail bonds.

The bill provides that whenever a surety company or bail agent or agency appeals the entry of a judgment or order entered against it to enforce the forfeiture of a bail bond, the surety company shall deposit the full amount of that order or judgment in cash or by certified, cashiers or bank check with the court.

Finally, a surety company is required to register with the Clerk of the Superior Court the name and address each bail agent or agency authorized by the surety company to write bail.

The committee amended the bill to delete the definition of "agency" and revise the definition of "bail agent or agency." The amendments also require the bail agent or agency to attest to the appropriate court or other agency that the full premium has been collected, and to register certain information with the Clerk of the Superior Court.

As reported with committee amendments, this bill is identical to Assembly Bill No. 3012 (1R).

STATEMENT TO
[First Reprint]
SENATE, No. 2372

with Senate Floor Amendments
(Proposed By Senator INVERSO)

ADOPTED: JUNE 23, 2003

These amendments delete section 2 of the bill which required a surety company, and its agents or employees, bail agents or agencies that issue bail bonds in this State to charge and collect a fee in the amount of 10 percent of the face amount of the bond or a minimum fee of \$125 as the premium for executing the bail bond, prior to or at the time of the filing of the bail bond and imposed penalties for failure to follow those provisions.

The amendments also provide that the court may allow the posting of a supersedeas bond, in a form approved by the court, upon the showing of good cause; provided, however, that good cause shall not mean an application by a surety to extend the time to forfeit a bond, to stay payment of a forfeiture of default judgment, or to extend the time to locate a defendant.