

# HOUSE BILL No. 5493

September 30, 2009, Introduced by Rep. Johnson and referred to the Committee on  
Regulatory Reform.

A bill to license and regulate bail enforcement agents; to provide for certain powers and duties for certain state agencies and law enforcement agencies; to require the obtaining of surety devices by licensees; to provide for the imposition of certain fees and establishment of certain standards of operation of licensees; to provide for the promulgation of rules; and to provide remedies and prescribe penalties.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1. This act shall be known and may be cited as the "bail  
2 enforcement agent regulation act".

3       Sec. 3. As used in this act:

4       (a) "Bail enforcement agent" means an individual who has been  
5 contractually retained as an agent by a surety or surety agent or

1 who is otherwise authorized to act on behalf of the surety, with or  
2 without consideration, for the delivery of a principal to the  
3 sheriff or other peace officer of any jurisdiction. Bail  
4 enforcement agent does not include a surety who is a natural person  
5 executing a recognizance on his or her own behalf.

6 (b) "Department" means the department of energy, labor, and  
7 economic growth.

8 (c) "Principal" means an individual charged with a crime in  
9 this or any other state who is the subject of a recognizance issued  
10 by a surety for the individual's appearance on that criminal  
11 matter.

12 (d) "Surety" means an individual or business entity that has  
13 entered into a recognizance as a surety for the personal appearance  
14 of an individual charged with a crime.

15 Sec. 5. (1) Subject to section 11, an individual shall not act  
16 as, attempt to act as, or represent himself or herself as being a  
17 bail enforcement agent unless that individual obtains a license  
18 from the department under this act.

19 (2) An individual may act or attempt to act as a bail  
20 enforcement agent only under 1 or more of the following  
21 circumstances based upon the information and belief of the surety:

22 (a) The individual subject to the recognizance has failed to  
23 appear at a required court appearance or has violated or may  
24 violate a condition of recognizance.

25 (b) The principal has left, is leaving, or is attempting to  
26 leave the jurisdiction.

27 (c) Failure of the sureties submitted by the principal.

1 (d) Action of the surety pursuant to section 26 of chapter V  
2 of the code of criminal procedure, 1927 PA 175, MCL 765.26.

3 Sec. 7. (1) The department shall issue a license as a bail  
4 enforcement agent only to a natural person.

5 (2) The department shall not issue a license as a bail  
6 enforcement agent to an individual who has been convicted of a  
7 felony or misdemeanor in which the individual caused physical  
8 injury to another person.

9 (3) An individual seeking licensure as a bail enforcement  
10 agent shall do all of the following:

11 (a) Apply to the department on a form supplied by the  
12 department and pay an application fee and a per-year license fee in  
13 the amount determined by the department in rules promulgated under  
14 subsection (7).

15 (b) Be at least 18 years of age.

16 (c) Supply a copy of the applicant's fingerprints acceptable  
17 to the department. The applicant shall sign an authorization for a  
18 criminal history check by the criminal history records division of  
19 the department of state police, including the records of the  
20 federal bureau of investigation, and pay a fee determined  
21 appropriate by the department to cover the cost of the criminal  
22 history check.

23 (d) If applicable, and subject to the prohibition of  
24 subsection (2), demonstrate to the department that at least 10  
25 years have passed after all of the following conditions regarding  
26 any felony convictions and misdemeanor convictions involving  
27 physical injury to another person:

1 (i) The payment of all fines, costs, and restitution.

2 (ii) The serving of all terms of imprisonment.

3 (iii) The completion of all conditions of probation or parole.

4 (e) Not later than 5 days before the date of application,  
5 successfully complete a course of education regarding the criminal  
6 justice system, consisting of at least 20 hours of classroom  
7 instruction.

8 (4) Upon the issuance of a license, the department shall issue  
9 a picture identification card stating the name and any alias of the  
10 licensee, the date of issuance and expiration date of the license,  
11 and the principal business address of the licensee. For a charge of  
12 at least \$10.00 but not to exceed the cost of issuance, the  
13 department shall issue a new card to a licensee whose card is lost  
14 or destroyed.

15 (5) A license under this act is valid for a period of 12  
16 months from the date of its issuance and is renewable by filing a  
17 renewal application not less than 30 days before the expiration  
18 date and enclosing the per-year license fee.

19 (6) Within 30 days after a change of home or business address,  
20 the licensee shall notify the department in writing of the change.  
21 Upon receipt of such a change, the department shall enter the  
22 change into its records and send a sticker to the licensee with the  
23 corrected information to be placed on the licensee's identification  
24 card.

25 (7) The department shall promulgate rules under the  
26 administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to  
27 24.328, to set fees for application for licensure under this act

1 and for a per-year license fee. The fees shall be in an amount  
2 determined by the department to cover the actual costs of  
3 processing the application and issuing the license.

4 Sec. 9. A bail enforcement agent shall do all of the  
5 following:

6 (a) Notify by telephone or in person an appropriate law  
7 enforcement agency having jurisdiction over the location where the  
8 apprehension will occur or is planned no sooner than 24 hours  
9 before and at least 30 minutes in advance of a planned attempt to  
10 apprehend a principal. This subdivision does not apply if all of  
11 the following circumstances exist:

12 (i) The bail enforcement agent is confronted with an  
13 unanticipated opportunity to apprehend a principal that would be  
14 seriously jeopardized by the delay inherent in providing advance  
15 notice so long as a reasonable person would conclude that the  
16 apprehension can be accomplished without the use of force.

17 (ii) It is not foreseeable to a reasonable person that injury  
18 to another person or property will occur.

19 (iii) The bail enforcement agent notifies the law enforcement  
20 agency within 60 minutes after the apprehension.

21 (b) Have in his or her possession documentation demonstrating  
22 that he or she has been retained or independently contracted and  
23 authorized by the surety to effect the apprehension.

24 (c) Have in his or her possession his or her license issued  
25 under this act or a license issued by another jurisdiction and at  
26 least 1 additional picture identification other than the licensee  
27 identification issued under this or another jurisdiction. This

1 additional picture identification shall be an operator's or  
2 chauffeur's license or an official identification issued by this or  
3 any other jurisdiction.

4 Sec. 11. A surety or an individual licensed as a bail  
5 enforcement agent in another jurisdiction may act as a bail  
6 enforcement agent in this state so long as he or she acts in  
7 compliance with section 9.

8 Sec. 13. A bail enforcement agent shall not have in his or her  
9 possession a firearm while performing his or her duties as a bail  
10 enforcement agent unless he or she is licensed to carry a concealed  
11 pistol under section 5b of 1927 PA 372, MCL 28.425b.

12 Sec. 15. (1) A person determined by a court of competent  
13 jurisdiction to have done any of the following is guilty of a  
14 felony punishable by imprisonment for not more than 2 years or a  
15 fine of not more than \$2,000.00, or both.

16 (a) Acted as, attempted to act as, or represented himself or  
17 herself as being a bail enforcement agent without being licensed  
18 under this act.

19 (b) Knowingly possessed an altered or forged bail enforcement  
20 agent identification card or license or knowingly altered or forged  
21 a bail enforcement agent identification card or license.

22 (c) In the case of a person not licensed under this act but  
23 licensed by another jurisdiction, failed to comply with section 9.

24 (2) Except as otherwise provided in subsection (1), a person  
25 determined by a court of competent jurisdiction to have, while  
26 licensed under this act, violated any other section of this act is  
27 guilty of a misdemeanor punishable by imprisonment for not more

1 than 1 year or a fine of not more than \$1,000.00, or both.

2       Sec. 17. After a notice and an opportunity for a hearing under  
3 the administrative procedures act of 1969, 1969 PA 306, MCL 24.201  
4 to 24.328, the department may suspend or revoke a license issued  
5 under this act of an individual determined to have violated this  
6 act.

7       Sec. 19. The sanctions and remedies under this act are  
8 independent and cumulative. The use of a remedy or the imposition  
9 of a sanction under this act does not bar other lawful remedies and  
10 does not limit criminal and civil liability.

11       Enacting section 1. This act does not take effect unless  
12 Senate Bill No. \_\_\_\_ or House Bill No. 5492(request no. 04400'09  
13 a) of the 95th Legislature is enacted into law.