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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 4855

03/11/2024 Authored by Her and Hussein
The bill was read for the first time and referred to the Committee on Commerce Finance and Policy

1.1 A bill for an act
1.2 relating to insurance; regulating sureties, supervising bail bond agencies, surety
1.3 bail bond producers, and bail bond enforcement agents; amending Minnesota
1.4 Statutes 2022, section 629.63; proposing coding for new law as Minnesota Statutes,
1.5 chapter 60M.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. [60M.01] DEFINITIONS.

1.8 Subdivision 1. Terms. For the purposes of this chapter, the terms defined in this section
1.9 have the meanings given them.

1.10 Subd. 2. Commissioner. "Commissioner" means the commissioner of commerce.

1.11 Subd. 3. Disqualifying offense. "Disqualifying offense" means: (1) a felony; or (2) a
1.12 gross misdemeanor if an element of the offense involves dishonesty or misappropriation of
1.13 money or property.

1.14 Subd. 4. Estreatment or estreature. "Estreatment" or "estreature" means the enforcement
1.15 of a forfeiture of a bail bond due to a failure of the principal to comply with a lawful
1.16 appearance in court and the court order forfeiting the bail bond.

1.17 Subd. 5. Insurer. "Insurer" means any domestic, foreign, or alien insurance company
1.18 that is licensed to transact surety business in Minnesota under section 60A.06.

1.19 Subd. 6. License. "License" means a surety bail bond producer license issued under
1.20 chapter 60K by the commissioner to a qualified individual, as provided in this chapter.

1.21 Subd. 7. Negotiate. "Negotiate" means the act of conferring directly with or offering
1.22 advice directly to a purchaser or prospective purchaser of a particular insurance contract

2.1 concerning any of the substantive benefits, terms, or conditions of the contract if the person
 2.2 engaged in the act either sells insurance or obtains insurance from insurers for purchasers.

2.3 Subd. 8. **Sell.** "Sell" means to exchange on behalf of an insurance company an insurance
 2.4 contract by any means for money or its equivalent.

2.5 Subd. 9. **Supervising bail bond agency.** "Supervising bail bond agency" means any
 2.6 agency contracted by an insurer to supervise or otherwise manage the bail bond business
 2.7 written in Minnesota by surety bail bond producers appointed by the insurer.

2.8 Subd. 10. **Solicit.** "Solicit" means: (1) any written or printed presentation or advertising
 2.9 made by mail or other publication which implies that an individual is licensed under this
 2.10 chapter; (2) an oral presentation or advertising in person or by means of telephone, radio,
 2.11 or television, which implies that an individual is licensed under this chapter; (3) an activity
 2.12 in arranging for bail which results in compensation or anything of value to the individual
 2.13 conducting that activity; or (4) an attempt to sell or ask or urge a person to apply for a bail
 2.14 bond from an insurer.

2.15 Subd. 11. **Surety bail bond producer.** "Surety bail producer" means any person licensed
 2.16 under this chapter that works for a supervising bail bond agency and is appointed by an
 2.17 insurer to execute or countersign bail bonds for the insurer in connection with judicial
 2.18 proceedings.

2.19 **Sec. 2. [60M.02] LICENSURE; GENERAL REQUIREMENTS.**

2.20 Subdivision 1. **Generally.** An insurer is prohibited from executing an undertaking of
 2.21 bail in Minnesota except by and through a surety bail bond producer holding a license issued
 2.22 under this chapter.

2.23 Subd. 2. **License required; discipline.** (a) A person is prohibited from selling, soliciting,
 2.24 or negotiating to execute or deliver an undertaking of bail or bail bond on behalf of an
 2.25 insurer, or execute or deliver an undertaking of bail or bail bond on behalf of an insurer,
 2.26 unless the person is licensed as provided in this section and chapter 60K.

2.27 (b) A person engaged in law enforcement or vested with police powers is prohibited
 2.28 from being licensed as a surety bail bond producer.

2.29 (c) In addition to the department's authority under chapters 45 and 60K, a person who
 2.30 violates this subdivision is guilty of a gross misdemeanor.

3.1 Subd. 3. **Bail bonds; license required.** (a) Only natural persons who are licensed under
3.2 this chapter may execute bail bonds. A license does not create any actual, apparent, or
3.3 inherent authority for the holder to represent or commit an insurance carrier.

3.4 (b) A supervising bail bond agency must be licensed as a business insurance producer
3.5 under 60K.37, subdivision 3. A supervising bail bond agency desiring to execute an
3.6 undertaking of bail in Minnesota must do so by and through a person holding a surety bail
3.7 bond producer license issued under this chapter. Any supervising bail bond agency doing
3.8 business under a name other than a surety bail bond producer's legal name must provide
3.9 the commissioner with documentation that the assumed name has been properly filed with
3.10 the secretary of state before the bail bond agency uses the assumed name.

3.11 Subd. 4. **New license application.** A person desiring to act as a surety bail bond producer
3.12 in Minnesota must submit a written application in the form prescribed by the commissioner.
3.13 Each application must be signed by the applicant and must be accompanied by a
3.14 nonrefundable filing fee in the amount provided under section 60K.55. The applicant must
3.15 also comply with the criminal history and background check requirements under section
3.16 60K.37, subdivision 2a.

3.17 Subd. 5. **Insurer appointment.** (a) Every surety and every surety bail bond producer
3.18 is subject to the appointment requirements under section 60K.49.

3.19 (b) An appointment of a person as a surety bail bond producer by an insurer under
3.20 paragraph (a) constitutes certification by the insurer that, to the best of the insurer's
3.21 knowledge and belief, the person is competent, meets the licensing requirements established
3.22 by the commissioner, and is suitable to serve as the insurer's representative. A person is
3.23 prohibited from representing to the public that the person has the authority to represent an
3.24 insurer as the insurer's surety bail bond producer until the person has been appointed an
3.25 agent by an insurer under this section.

3.26 (c) Each appointment, by its terms, continues in force until: (1) the surety bail bond
3.27 producer's license is inactive for any reason; (2) the insurer or the insurer's representative
3.28 files a notice of termination with the commissioner; or (3) the surety bail bond producer
3.29 files a notice of termination with the commissioner.

3.30 (d) Prior to appointment by the insurer and at each subsequent license renewal, a surety
3.31 bail bond producer must sign an affidavit of compliance, as developed and adopted by the
3.32 commissioner, limited to acknowledging that the surety bail bond producer is familiar with
3.33 and continually complies with the conditions established in this chapter. Completed affidavits

4.1 of compliance must be held by the insurer and must be sent to the Department of Commerce
 4.2 within ten days of the date a request is received.

4.3 Subd. 6. **Construction.** Unless specifically governed by provisions in this chapter, the
 4.4 requirements of chapter 60K continue to apply to all insurers, supervising bail bond agencies,
 4.5 and surety bail bond producers.

4.6 Subd. 7. **Notice; status changes.** Each surety bail bond producer or surety bail bond
 4.7 agency must provide written notice no later than 30 days after a change, proceeding, action,
 4.8 or order:

4.9 (1) to the commissioner, the appointing insurer, and the supervising bail bond agency
 4.10 of a change in the surety bail bond producer's business name, principal business address,
 4.11 telephone number, or e-mail address;

4.12 (2) to the commissioner of a change in the surety bail bond producer's name, residence
 4.13 address, telephone number, or e-mail address; and

4.14 (3) to the commissioner of (i) any bankruptcy proceeding in Minnesota or another state
 4.15 concerning the surety bail bond producer, or (ii) any administrative action taken or any
 4.16 administrative order entered against the producer in Minnesota or another state.

4.17 Subd. 8. **Notice; disqualifying offenses.** The insurer, supervising bail bond agency, or
 4.18 surety bail bond producer must notify the commissioner in writing not later than 30 days
 4.19 after receiving notice or learning that a surety bail bond producer has been arrested for,
 4.20 charged with, pleaded guilty or nolo contendere to, or been found guilty of a disqualifying
 4.21 offense in Minnesota or an offense in any other state for which the essential elements are
 4.22 substantially the same as a disqualifying offense, whether judgment was entered or withheld
 4.23 by a court.

4.24 **Sec. 3. [60M.03] SURETY BAIL BONDS.**

4.25 Subdivision 1. **Authorized premium.** A surety bail bond producer is prohibited from
 4.26 executing a bail bond without charging the premium provided under the surety's rate filing
 4.27 with the commissioner. The minimum premium charged on any bond is \$100.

4.28 Subd. 2. **Fees for services.** A surety bail bond producer is prohibited from charging a
 4.29 fee for any services rendered in connection with the solicitation, negotiation, or servicing
 4.30 of any bail bond contract unless:

4.31 (1) before rendering the services a written statement is provided, disclosing:

4.32 (i) the services for which fees are charged;

- 5.1 (ii) the amount of the fees;
5.2 (iii) that the fees are charged in addition to premiums; and
5.3 (iv) that premiums include a commission; and
5.4 (2) all fees charged are reasonable in relation to the services rendered.

5.5 Subd. 3. **Insurer audits.** (a) An insurer must annually audit for the period from January
5.6 1 to December 31 each of the insurer's appointed surety bail bond producers to ensure each
5.7 producer has complied with this chapter's requirements regarding premium charged, premium
5.8 collected, the existence and amount of the promissory note or other security, the surety bail
5.9 bond producer's collection efforts, and collateral taken by the surety bail bond producer.
5.10 The commissioner must develop and adopt an insurer audit template no later than 60 days
5.11 following the enactment of this act. The insurer must complete the audit template as part
5.12 of the annual audit. Not later than June 30 each year, an insurer must notify the commissioner
5.13 if any surety bail bond producer failed to comply with this chapter's requirements regarding
5.14 premium charged, premium collected, the existence and amount of the promissory note or
5.15 other security, the surety bail bond producer's collection efforts, and collateral taken by the
5.16 surety bail bond producer during the previous calendar year. The notice must include the
5.17 name of the surety bail bond producer and details regarding the surety bail bond producer's
5.18 failure to comply with the requirements.

5.19 (b) The annual audit required by this subdivision must include a review of an adequate
5.20 sample of bonds written by each surety bail bond producer. An adequate sample consists
5.21 of the lesser of 12 bonds or 20 percent of the bonds written by each producer. If the surety
5.22 bail bond producer has written less than 24 bonds, all bonds must be audited.

5.23 (c) The audit sample must include the four largest and four smallest bonds written by
5.24 the surety bail bond producer. Of the remaining bonds audited, to the extent the quantity of
5.25 bonds supports the percentage, 50 percent must be randomly selected bonds with a penal
5.26 sum of \$12,000 or less, and the remaining 50 percent with a penal sum of over \$12,000.

5.27 (d) The audit must be conducted at either the bail bond surety producer's or supervising
5.28 bail bond agency's office, depending on the location of the files. The audit may be done
5.29 electronically by the insurer if the surety bail bond producer's and supervising bail bond
5.30 agency's files are stored electronically and cannot be altered once they are stored, and the
5.31 surety has access to the complete records. The insurer must not disclose to the surety bail
5.32 bond producer or the supervising bail bond agency, or anyone affiliated with the surety bail
5.33 bond producer or the supervising bail bond agency, the files included in the insurer's audit
5.34 until the insurer's on-site audit begins.

6.1 (e) For each bond audited, the insurer must confirm:

6.2 (1) the proper premium was charged and collected. Confirmation of premium collection
6.3 includes a review of the premium account statements and deposit slips;

6.4 (2) a proper premium receipt is in the bail bond surety producer's file;

6.5 (3) a proper promissory note was executed at the time the bond was sold if the full
6.6 premium was not paid before the bond was posted;

6.7 (4) that suit was filed if the premium was not paid as required under section 60M.04;
6.8 and

6.9 (5) that reasonable efforts were made to (i) serve a summons and complaint; (ii) enter
6.10 judgment, unless the matter was settled while the suit was pending; and (iii) enforce the
6.11 judgment by docketing the judgment with the district court.

6.12 (f) In addition to the audit required under this section, the annual audit required under
6.13 this subdivision must include a follow-up review of each bond audited the prior year for
6.14 which the full premium had not been collected at the time of the final audit. For each bond
6.15 in the follow-up review, the insurer must confirm, through a review of the premium account
6.16 and deposit slips, that the full premium was collected or if full payment was not received,
6.17 that the required suit was filed and reasonable efforts were made to (1) serve the summons
6.18 and complaint, (2) enter judgment, unless the matter was settled while the suit was pending,
6.19 and (3) enforce the judgment. Nothing in this section precludes the commissioner or the
6.20 commissioner's designated producer from auditing some or all of a surety bail bond producer's
6.21 or supervising bail bond agency's files.

6.22 (g) An insurer must conduct an annual audit of every surety bail bond producer's and
6.23 supervising bail bond agency's collateral security records. The insurer must sample the
6.24 lesser of 12 bonds that were secured by collateral security or 20 percent of all bonds secured
6.25 by collateral security. The audit under this paragraph must include:

6.26 (1) confirmation the surety bail bond producer or supervising bail bond agency maintained
6.27 a collateral security log that lists (i) the power of attorney number; (ii) the defendant's name;
6.28 (iii) the depositor's name; (iv) the cash collateral amount, including information indicating
6.29 whether the cash collateral is being held in an interest bearing account for the benefit of the
6.30 collateral owner; (v) a detailed description of the collateral, if the collateral is not cash; (vi)
6.31 the date the collateral was taken; and (vii) the dates the collateral was sent to the insurer,
6.32 returned to the depositor, liquidated, or applied to any loss or costs incurred by the surety
6.33 bail bond producer, supervising bail bond agency, or insurer;

7.1 (2) that a cash collateral security trust account exists;

7.2 (3) that the balance of cash collateral security shown on the collateral security log equals
7.3 the amount held in the collateral security trust account; and

7.4 (4) that a collateral security receipt exists.

7.5 Subd. 4. Executed bail bonds; certification. Not later than June 30 each year, an insurer
7.6 must file with the commissioner a statement certifying the total amount of bail bonds
7.7 executed by the insurer and the total amount of premiums charged by the insurer on the bail
7.8 bonds in the preceding calendar year.

7.9 Subd. 5. Construction; limitation. Nothing in this section prohibits or limits a premium
7.10 financing arrangement that complies with section 60M.04.

7.11 Sec. 4. [60M.04] PREMIUM FINANCING ARRANGEMENTS.

7.12 Subdivision 1. Generally. A surety bail bond producer may, with approval of the surety
7.13 by which the surety bond producer is appointed, enter into a premium financing arrangement
7.14 with a principal or any indemnitor in which the surety bail bond producer extends credit to
7.15 the principal or indemnitor for bail bonds with a penal sum of \$3,000 or more. Premium
7.16 financing arrangements are prohibited for a bail bond with a penal sum that is less than
7.17 \$3,000.

7.18 Subd. 2. Requirements. (a) If a court sets cash bail as 15 percent or less of the penal
7.19 amount of the bond, a surety, supervising bail bond agency, or principal may charge a
7.20 premium as low as 50 percent of the cash bail amount set by the court, subject to a minimum
7.21 premium of \$100. In order to charge the premium authorized in this paragraph, the premium
7.22 structure must be included in the surety's rate filing with the commissioner. The supervising
7.23 bail bond agency and principal are required to obtain documentation from the court that
7.24 specifies the cash bail amount set by the court and must maintain the documentation in the
7.25 bond file. Paragraphs (b) and (c) apply to payment of the premium under this paragraph.
7.26 The bail bond agency and surety bail bond producer must maintain a log of all bonds where
7.27 the premium charged was based on this paragraph, consistent with the surety's filed rates.

7.28 (b) A surety bail bond producer may enter into a premium financing arrangement on
7.29 behalf of the surety for any bail bond with a penal sum of \$3,000 or more. For bonds with
7.30 a penal sum of \$3,000 to \$10,000, the principal on the bail bond or any indemnitor must
7.31 make a minimum down payment of 50 percent of the premium owed under the surety's rate
7.32 filing approved by the commissioner. For bonds with a penal sum greater than \$10,000, the

8.1 principal on the bail bond or any indemnitor must make a minimum down payment of 30
8.2 percent of the premium owed under the surety's rate filing approved by the commissioner.

8.3 (c) The promissory note must provide that the balance must be paid no later than 360
8.4 days after the date the bail bond is executed. The promissory note may allow for (1) an
8.5 annual interest rate of no more than six percent, and (2) the actual costs of collection and
8.6 reasonable attorney fees in the event of a default.

8.7 (d) If the balance has not been paid in full to the surety bail bond within 90 days after
8.8 the due date, the supervising bail bond agency or surety bail bond producer must, within
8.9 20 days after the due date, file civil court action or refer the matter for collection to a licensed
8.10 collection agency.

8.11 (e) The supervising bail bond agency or surety bail bond producer, either directly or
8.12 through a licensed collection agency, must make a diligent effort to recover the amount
8.13 owed by obtaining a judgment after filing a complaint unless good cause is shown for the
8.14 failure to obtain judgment, including a bankruptcy filing by the principal or the indemnitor,
8.15 failure to serve process despite good faith efforts, the matter is settled while the action was
8.16 pending, or any other reason that has received prior approval from the commissioner.

8.17 **Sec. 5. [60M.05] PREMIUMS; TRUST FUNDS.**

8.18 All premiums, including any part of a premium that a surety bail bond producer is
8.19 obligated to return to a principal or indemnitor, and other funds belonging to insurers or
8.20 others that are received by a surety bail bond producer in performing the producer's duties
8.21 as a surety bail bond producer are deemed trust funds received by the producer in a fiduciary
8.22 capacity. The producer must account for and pay the same to the insurer or persons entitled
8.23 to the funds pursuant to the surety bail bond producer's contract with the insurer or
8.24 supervising bail bond agency. Fees, expenses, or charges of any kind must not be deducted
8.25 from any premium the surety bail bond producer is obligated to return to a principal or
8.26 indemnitor, except as authorized under sections 60M.03 to 60M.12. The insurer, supervising
8.27 bail bond agency, and surety bail bond producer must accept only cash, money orders,
8.28 checks, wire transfers, electronic funds transfers, debit cards, prepaid cash cards, and credit
8.29 cards for premium payments, with any balance owed evidenced by a promissory note that
8.30 is approved by the insurer.

8.31 **Sec. 6. [60M.06] RECORDS.**

8.32 A surety bail bond producer and supervising bail bond agency must keep and make
8.33 available all books, accounts, and records of surety bail bonds executed or countersigned

9.1 by the producer for at least three years after the insurer's liability has been terminated.
9.2 Records that are preserved by photographic, electronic, or digital reproduction, or records
9.3 that are in photographic, electronic, or digital form, comply with this section if the record
9.4 is legible and cannot be altered once it is stored. A surety bail bond producer's and supervising
9.5 bail bond agency's records must be available to a Department of Commerce authorized
9.6 representative, an authorized representative of the insurer, or a supervising bail bond agency
9.7 at all times for examination, inspection, and photographic, electronic, or digital reproduction.
9.8 The commissioner may require a surety bail bond producer and supervising bail bond agency
9.9 to furnish to the Department of Commerce at any time any information, in the manner or
9.10 form as the commissioner may require, concerning the surety bail bond producer's or
9.11 supervising bail bond agency's surety bail bond business. A surety bail bond agent or
9.12 supervising bail bond agency that receives a request for information under this section must
9.13 provide the information within a reasonable time period. This section is in addition to the
9.14 commissioner's authority under chapters 45, 60A, and 60K.

9.15 **Sec. 7. [60M.07] ACCOUNTS.**

9.16 (a) The surety, supervising bail bond agency, and surety bail bond producer must accept
9.17 only cash, money orders, checks, wire transfers, electronic funds transfers, debit cards,
9.18 prepaid cash cards, and credit cards for premium payments, with any balance owed evidenced
9.19 by a promissory note as authorized under section 60M.04, subdivision 2, paragraphs (b)
9.20 and (c).

9.21 (b) A supervising bail bond agency must maintain a trust account pursuant to the
9.22 supervising bail bond agency's contract with the insurer.

9.23 (c) The insurer or supervising bail bond agency must deposit funds received from the
9.24 surety bail bond producer in the trust account within seven business days of a bond being
9.25 posted or a payment being made on a premium promissory note. The surety bail bond
9.26 producer must deposit the funds received directly into a trust account maintained by the
9.27 surety bail bond producer. Interest earned on any deposits accrues to the surety bail bond
9.28 producer.

9.29 (d) The only funds that may be deposited into a trust account are premium payments,
9.30 travel-related fees, or other fees that are reasonable in relation to the service provided and
9.31 that were disclosed to the customer in advance, as required under section 60K.46, subdivision
9.32 2.

10.1 (e) Each deposit into a trust account must be accompanied by a deposit slip that separately
 10.2 designates the source of the deposit and specifically lists the power of attorney number used
 10.3 for the bond the premium was collected for.

10.4 (f) Withdrawals from a surety bail bond producer's trust account must be made only to:

10.5 (1) pay the insurer or supervising bail bond agency the net premium, defined as premium
 10.6 less commission as agreed to in advance and in writing between the surety bail bond producer
 10.7 and the insurer or the supervising bail bond agency;

10.8 (2) pay the insurer or supervising bail bond agency any required build up fund or escrow
 10.9 account pursuant to the contract between the surety bail bond producer and the insurer or
 10.10 the supervising bail bond agency;

10.11 (3) pay the surety bail bond producer any travel-related or other fees that have been
 10.12 collected and that are reasonable in relation to the service provided and disclosed in advance
 10.13 to the customer in accordance with section 60K.46, subdivision 2;

10.14 (4) pay to the surety bail bond producer any fees or charges deducted electronically by
 10.15 credit card processing vendors, provided the fees or charges are reasonable in relation to
 10.16 the service provided and were disclosed to the customer in advance, as required under
 10.17 section 60K.46, subdivision 2; and

10.18 (5) distribute any excess amounts to the surety bail bond producer's operating account.

10.19 (g) The account must be open to inspection and examination by the Department of
 10.20 Commerce at all times. The insurer, supervising bail bond agency, and surety bail bond
 10.21 producer must maintain an accurate accounting of all accounts.

10.22 **Sec. 8. [60M.08] SURETY BAIL BOND PRODUCER; COLLATERAL SECURITY;**
 10.23 **GENERALLY.**

10.24 Subdivision 1. **Collateral security; indemnity.** A surety bail bond producer may receive
 10.25 collateral security consisting of cash, property, or other indemnity on a bail bond, if approved
 10.26 by the insurer.

10.27 Subd. 2. **Requirements.** A surety bail bond producer, supervising bail bond agency, or
 10.28 an insurer who receives collateral security or other indemnity on a bail bond must comply
 10.29 with all of the following requirements:

10.30 (1) the collateral security or other indemnity must be reasonable in relation to the amount
 10.31 of the bail bond;

11.1 (2) the collateral security or other indemnity must not be used by the surety bail bond
11.2 producer for personal benefit or gain, and must be returned in the same condition as received;

11.3 (3) acceptable forms of collateral security or other indemnity include cash or its
11.4 equivalent, a promissory note, an indemnity agreement, a real property mortgage in the
11.5 name of the insurer, any Uniform Commercial Code filing, or other collateral security with
11.6 the insurer's documented prior approval;

11.7 (4) the surety bail bond producer must provide to the person providing the collateral
11.8 security or other indemnity a written, numbered receipt that includes the date, depositor's
11.9 name and address, supervising bail bond agency's name and address, insurer's name and
11.10 address, defendant's name, bond amount, bond number, and the cash amount or a detailed
11.11 description of the collateral if not cash;

11.12 (5) the receipt must be signed by (i) the surety bail bond producer, insurer, or supervising
11.13 bail bond agency, and (ii) the individual on whose behalf the collateral is being held;

11.14 (6) the surety bail bond producer or supervising bail bond agency must hold the collateral
11.15 security or other indemnity in a fiduciary capacity and must not, prior to any forfeiture of
11.16 a bail bond, commingle the collateral security or other indemnity with any other funds or
11.17 assets the surety bail bond producer or supervising bail bond agency maintains, unless the
11.18 insurer directs the surety bail bond producer or supervising bail bond agency to collateral
11.19 security to the surety;

11.20 (7) all cash collateral must be deposited within five business days into a cash collateral
11.21 trust account maintained by the surety. All checks, money orders, wire transfers, or similar
11.22 funds transfers for collateral must be made payable to the surety or, at the discretion of the
11.23 surety, made payable to the supervising bail bond agency and deposited into the surety's or
11.24 supervising bail bond agency's collateral account within ten business days of the date the
11.25 payment is received. When required by law, the bail bond agency or producer must (i) file
11.26 an IRS Form 8300, (ii) file an informational notice, and (iii) retain copies of the filings
11.27 under items (i) and (ii) in the bail bond agency's or producer's files;

11.28 (8) at the discretion of the surety, the surety or supervising bail bond agency must
11.29 maintain a separate cash collateral trust account, which may be interest bearing. If the cash
11.30 collateral trust account is interest bearing, all interest earned accrues for the benefit of the
11.31 individual for whom the collateral is being maintained;

11.32 (9) a surety bail bond producer and the supervising bail bond agency must turn over to
11.33 the insurer all collateral received or as otherwise provided in this section. At the insurer's
11.34 discretion, the insurer may permit the surety bail bond producer to turn over all collateral

12.1 received to the supervising bail bond agency and permit the supervising bail bond agency
12.2 to retain possession and control over the collateral without turning it over to the insurer. If
12.3 the insurer permits the supervising bail bond agency to retain possession and control over
12.4 the collateral, the supervising bail bond agency has the responsibilities and obligations of
12.5 the insurer set forth under this chapter. A surety bail bond producer must not be allowed to
12.6 retain possession or control of the collateral beyond the times set forth in this chapter;

12.7 (10) if the surety bail bond producer receives collateral security or other indemnity in
12.8 excess of \$50,000 in cash: (i) the cash amount must be made payable to the insurer in the
12.9 form of a cashier's check, United States postal money order, certificate of deposit, or wire
12.10 or other electronic transfer; and (ii) the producer must forward within seven business days
12.11 the entire amount of the collateral security or other indemnity to the insurer;

12.12 (11) the insurer, supervising bail bond agency, or surety bail bond producer is prohibited
12.13 from taking a quit claim deed on real property as collateral for a bond;

12.14 (12) all mortgages and deeds of trust taken as collateral for a bond must name the insurer
12.15 as mortgagee or, at the discretion of the insurer, the supervising bail bond agency may be
12.16 named as the mortgagee, except that a surety bail bond producer must not be named as a
12.17 mortgagee;

12.18 (13) the insurer or supervising bail bond agency that controls the collateral must return
12.19 all collateral to the depositor named in the collateral receipt within 21 calendar days after
12.20 the depositor has provided written proof of bond discharge to the insurer or supervising bail
12.21 bond agency; provided, however, that if the depositor owes the insurer, supervising bail
12.22 bond agency, or surety bail bond producer any premium or any loss or expense related to
12.23 a breach of the bond or any terms of any indemnity or other agreement, the insurer or
12.24 supervising bail bond agency may retain from the collateral all funds required to satisfy the
12.25 depositor's debts;

12.26 (14) if all debts secured by the collateral are satisfied, the insurer or supervising bail
12.27 bond agency must file documentation within 21 calendar days after the depositor has provided
12.28 written proof of the bond discharge to the insurer or supervising bail bond agency to release
12.29 any liens, security interests, mortgages, or other interests filed or obtained in relation to the
12.30 collateral; and

12.31 (15) any action taken to enforce or foreclose upon collateral must comply with Minnesota
12.32 law.

12.33 Subd. 3. **Deposit.** With the insurer's prior approval, the surety bail bond producer or
12.34 supervising bail bond agency may deposit collateral security or other indemnity in an

13.1 interest-bearing account in a federally insured bank or savings and loan association in
13.2 Minnesota, to accrue for the benefit of the person providing the collateral security or other
13.3 indemnity. The surety bail bond producer, insurer, or supervising bail bond agency is
13.4 prohibited from receiving any direct or indirect pecuniary or other gain on the collateral
13.5 security or other indemnity deposited.

13.6 Subd. 4. **Insurer liability.** (a) The insurer is liable for all collateral security or other
13.7 indemnity received by a surety bail bond producer. If, upon final termination of liability on
13.8 a bail bond, the surety bail bond producer or supervising bail bond agency fails to return
13.9 the collateral security or other indemnity to the person who provided it, the insurer must
13.10 return the actual collateral or other indemnity to the person or, in the event that the insurer
13.11 cannot locate the collateral security or other indemnity, must pay the person the value of
13.12 the collateral security or other indemnity, less any amount owed to the producer.

13.13 (b) An insurer's liability under paragraph (a) survives the termination of the surety bail
13.14 bond agent's appointment, with respect to bail bonds executed by the surety bail bond
13.15 producer prior to the termination of the appointment.

13.16 Subd. 5. **Forfeiture; conversion.** (a) If a forfeiture of the bail bond occurs, the surety
13.17 bail bond producer, supervising bail bond agency, or insurer that controls the collateral must
13.18 give the person who provided the real property collateral security or other indemnity 30
13.19 days' written notice of intent to convert the collateral security or other indemnity into cash
13.20 to satisfy the forfeiture. The notice must be sent by certified mail, return receipt requested,
13.21 to the last-known address of the principal and the person who provided the collateral security
13.22 or other indemnity.

13.23 (b) The surety bail bond producer or insurer must (1) convert the collateral security or
13.24 other indemnity into cash within a reasonable period of time, and (2) return to the principal
13.25 or the person who provided the collateral security or other indemnity any amount in excess
13.26 of the face value of the bail bond, minus the actual and reasonable expenses to convert the
13.27 collateral security or other indemnity into cash. Expenses must not exceed ten percent of
13.28 the face value of the bail bond. If a surety bail bond producer expends more than ten percent
13.29 of the face value of the bail bond to convert the collateral security or other indemnity into
13.30 cash, the producer may file a civil action to recover the full amount of the actual and
13.31 reasonable expenses upon motion and proof that the actual and reasonable expenses exceed
13.32 ten percent of the face value of the bail bond.

13.33 Subd. 6. **Certain agreements void.** An agreement that violates a provision of sections
13.34 60M.03 to 60M.12 is void.

14.1 **Sec. 9. [60M.09] COLLATERAL SECURITY; TERMINATION.**

14.2 (a) If collateral security or other indemnity was received on a bail bond by a surety bail
 14.3 bond producer and the bond is terminated, the insurer, supervising bail bond agency, or
 14.4 surety bail bond producer must return the collateral security or other indemnity, except a
 14.5 promissory note or an indemnity agreement, not later than 21 days after the date a written
 14.6 report from the court that the bail bond has been terminated is received. The collateral
 14.7 security or other indemnity must be returned to the person who provided the collateral
 14.8 security or other indemnity, unless the right to receive the return of the collateral security
 14.9 or other indemnity is provided to another person by legal assignment.

14.10 (b) If, despite diligent inquiry by the insurer or supervising bail bond agency to determine
 14.11 whether the bail bond has been terminated the court fails to provide any written report on
 14.12 termination, the collateral security or other indemnity, except a promissory note or an
 14.13 indemnity agreement, must be returned to the person who provided the collateral security
 14.14 or other indemnity not later than 21 days of the date the insurer, supervising bail bond
 14.15 agency, or surety bail bond producer received information that the bail bond has been
 14.16 terminated, subject to any allowable fees or expenses the depositor must reimburse for
 14.17 balances owed.

14.18 **Sec. 10. [60M.10] LICENSE REQUIRED.**

14.19 An insurer, supervising bail bond agency, or surety bail bond producer is prohibited
 14.20 from furnishing to any person any blank form, application, stationery, business card, or
 14.21 other supplies to be used in the sale, solicitation, negotiation, or execution of bail bonds,
 14.22 unless the person is licensed to act as a surety bail bond producer and is appointed by an
 14.23 insurer. Except for a power of attorney form, a bond appearance form, or a collateral security
 14.24 or other indemnity receipt, this section does not prohibit an unlicensed employee who is
 14.25 under the direct supervision and control of a licensed and appointed surety bail bond producer
 14.26 from possessing or working with any other form used while performing administrative
 14.27 duties in the surety bail bond producer's or insurer's office, provided the unlicensed
 14.28 employee's compensation is not based on the sale, solicitation, or negotiation of a bail bond
 14.29 transaction.

14.30 **Sec. 11. [60M.11] SURETY BAIL BOND PRODUCER, SUPERVISING BAIL BOND**
 14.31 **AGENCY, OR INSURER; PROHIBITIONS.**

14.32 In addition to the prohibitions under section 60K.46, a surety bail bond producer or
 14.33 insurer is prohibited from:

15.1 (1) suggesting or advising, directly or indirectly in exchange for a fee or other thing of
15.2 value, the employment of or name for employment of a particular attorney to represent the
15.3 principal on a bail bond;

15.4 (2) unless a request is initiated by an arrested person or potential indemnitor, directly
15.5 or indirectly soliciting business in or on the property or grounds of (i) a correctional
15.6 institution, (ii) community correctional center or other detention facility where arrested
15.7 persons are confined, or (iii) within any police station or courthouse. The prohibition under
15.8 this clause includes unsolicited telephone communications made to a correctional institution,
15.9 community correctional center or other detention facility, police station, or courthouse, but
15.10 does not include solicitations using the Internet. For purposes of this clause, "solicit" includes
15.11 the display or distribution of business cards, print or other advertising of any kind, or any
15.12 other written information directed to arrested persons or potential indemnitors. A correctional
15.13 institution, community correctional center or other detention facility where arrested persons
15.14 are confined, police station, or courthouse may permit print advertising by an insurer,
15.15 supervising bail bond agency, or surety bail bond producer in or on the property or grounds
15.16 of the institution, center or facility, police station, or courthouse, provided the advertising
15.17 is limited to (i) a listing in a telephone or other directory, or (ii) posting the supervising bail
15.18 bond agency's name or the surety bail bond producer's name, address, and telephone number
15.19 in a prominent designated location in or on the property or grounds;

15.20 (3) wearing or otherwise displaying any surety bail bond producer identification, other
15.21 than a surety bail bond agent license or surety bail bond producer identification issued or
15.22 approved by the Department of Commerce, in or on the property or grounds of a correctional
15.23 institution, community correctional center or other detention facility where arrested persons
15.24 are confined, or in or on the property or grounds of any courthouse;

15.25 (4) paying a fee or rebate, or directly or indirectly giving or promising anything of value
15.26 to a law enforcement officer, judicial marshal, employee of the Department of Corrections
15.27 or other person who has power to arrest or to hold a person in custody, or to any other public
15.28 official or public employee, to secure estreatment of bail, or a compromise, remission, or
15.29 reduction in the amount of a bail bond;

15.30 (5) paying a fee or rebate, or directly or indirectly giving or promising anything of value
15.31 to an individual person in jail, to solicit on behalf of the surety bail bond producer or
15.32 supervising bail bond agency or to secure estreatment of bail, or a compromise, remission,
15.33 or reduction in the amount of a bail bond;

16.1 (6) paying a fee or rebate, or directly or indirectly giving or promising anything of value
 16.2 to an attorney in any matter pertaining to a bail bond, except in defense of any action on a
 16.3 bail bond;

16.4 (7) paying a fee or rebate, or giving or promising directly or indirectly anything of value
 16.5 to the principal or to any person on the principal's behalf;

16.6 (8) participating in the capacity of an attorney at a proceeding of a principal;

16.7 (9) accepting anything of value from a principal for providing a bail bond, other than
 16.8 the premium approved by the commissioner under chapter 70A and an expense fee, except
 16.9 that a surety bail bond agent may accept collateral security or other indemnity from a
 16.10 principal or other person under section 60M.09. A surety bail bond producer may, upon
 16.11 written agreement with a third party, receive a fee or other compensation for returning to
 16.12 custody an individual who has fled the jurisdiction of the court or whose bail bond has been
 16.13 forfeited;

16.14 (10) executing a bail bond in Minnesota on the agent's or insurer's own behalf;

16.15 (11) writing a bail bond in Minnesota for an arrested person if the arrested person or a
 16.16 person with actual or apparent authority to act on behalf of the arrested person has not
 16.17 authorized the surety bail bond producer, in writing, to execute a bail bond on the arrested
 16.18 person's behalf. The surety bail bond producer must maintain any such written authorization;
 16.19 or

16.20 (12) failing to provide timely notice of the information required under section 60M.02,
 16.21 subdivision 9.

16.22 Sec. 12. **[60M.12] REPORTING.**

16.23 Subdivision 1. **Record retention.** Each insurer, supervising bail bond agency, and each
 16.24 surety bail bond producer that executes bail bonds in Minnesota must maintain the following
 16.25 records by calendar year, based on the insurer's, supervising bail bond agency's, or surety
 16.26 bail bond producer's Minnesota bail bond business, and upon request provide them to the
 16.27 Department of Commerce within a reasonable time frame. A surety bail bond producer, or
 16.28 the supervising bail bond agency on the surety bail bond producer's behalf, must maintain
 16.29 separately for each insurer represented:

16.30 (1) the following records on each bond written, for a period of at least seven years after
 16.31 the bond terminates:

16.32 (i) power of attorney;

- 17.1 (ii) the premium receipts;
- 17.2 (iii) the promissory note for unpaid premiums, if any;
- 17.3 (iv) the cash bond set by the court, if an amount less than the filed rate is accepted for
- 17.4 the premium;
- 17.5 (v) all documents related to any lawsuit filed to collect the premium;
- 17.6 (vi) any indemnity agreements;
- 17.7 (vii) collateral receipts, if any;
- 17.8 (viii) proof of the return of collateral, if any;
- 17.9 (ix) proof of bond exoneration or forfeiture payment;
- 17.10 (x) all records relating to the liquidation and conversion of any collateral, including fees
- 17.11 or costs; and
- 17.12 (xi) proof of any expenses incurred or losses paid by the surety, supervising bail bond
- 17.13 agency, or surety bail bond producer;
- 17.14 (2) all premium account, collateral account, and operating account bank slips, including
- 17.15 deposit slips, for a period of at least seven years; and
- 17.16 (3) any additional information the Department of Commerce may require to: (i) evaluate
- 17.17 the reasonableness of rates or ensure that rates are not excessive, inadequate, or unfairly
- 17.18 discriminatory; (ii) evaluate the financial condition or trade practices of surety bail bond
- 17.19 producers and insurers executing bail bonds; and (iii) evaluate the performance of the surety
- 17.20 bail bond producers, supervising bail bond agencies, and insurers executing bail bonds in
- 17.21 a manner consistent with appropriate criminal justice system goals and standards.
- 17.22 Subd. 2. **Information submission; insurers.** An insurer may designate that a surety
- 17.23 bail bond producer or supervising bail bond agency retain the information on the surety bail
- 17.24 bond producer's behalf must submit a copy of the information maintained and submitted
- 17.25 under subdivision 1 to each insurer the producer represents.
- 17.26 **Sec. 13. [60M.13] LICENSE ENFORCEMENT.**
- 17.27 Subdivision 1. **Action against licensee.** The commissioner may take action against the
- 17.28 license of any insurer, surety bail bond producer, or supervising bail bond agency as provided
- 17.29 for under chapters 45 and 60K or rules promulgated under chapter 45 and 60K for any
- 17.30 violation of this chapter, chapter 45 or 60K, or rules promulgated under chapter 45 and 60K.

18.1 Subd. 2. **Designation.** Upon the surrender, suspension, or revocation of a surety bail
18.2 bond producer's license, the appointing insurer or supervising bail bond agency must
18.3 immediately designate a licensed and appointed surety bail bond producer to administer all
18.4 bail bonds previously executed by the licensee.

18.5 Sec. 14. **[60M.14] FEES.**

18.6 In conjunction with the examination of any insurer, the commissioner is authorized to
18.7 charge the fees provided under sections 60A.031 and 60A.033.

18.8 Sec. 15. **[60M.15] CHANGE NOTICE.**

18.9 Each supervising bail bond agency or surety bail bond producer licensed under this
18.10 chapter must inform the commissioner, in writing, of any change in the entity's or individual's
18.11 name, residence address, or telephone number not later than 30 days after the date the change
18.12 occurred.

18.13 Sec. 16. **[60M.16] VIOLATIONS.**

18.14 In addition to the provisions of section 60M.13, a person whose license has been revoked
18.15 is also barred from engaging in business as a bail bond enforcement agent in Minnesota or
18.16 engaging in managing a supervising bail bond agency.

18.17 Sec. 17. Minnesota Statutes 2022, section 629.63, is amended to read:

18.18 **629.63 SURETY ARREST OF DEFENDANT.**

18.19 (a) If a surety believes that a defendant for whom the surety is acting as bonding agent
18.20 (1) is about to flee, (2) will not appear as required by the defendant's recognizance, or (3)
18.21 will otherwise not perform the conditions of the recognizance, the surety may arrest or have
18.22 another person or the sheriff arrest the defendant.

18.23 (b) If the surety or another person at the surety's direction arrests the defendant, the
18.24 surety or the other person shall take the defendant before the judge before whom the
18.25 defendant was required to appear and surrender the defendant to that judge.

18.26 (c) If the surety wants the sheriff to arrest the defendant, the surety shall deliver a certified
18.27 copy of the recognizance under which the defendant is held to the sheriff, with a direction
18.28 endorsed on the recognizance requiring the sheriff to arrest the defendant and bring the
18.29 defendant before the appropriate judge.

19.1 (d) Upon receiving a certified copy of the recognizance and payment of the sheriff's
19.2 fees, the sheriff shall arrest the defendant and bring the defendant before the judge.

19.3 (e) Before a surety who has arrested a defendant who has violated the conditions of
19.4 release may personally surrender the defendant to the appropriate judge, the surety shall
19.5 notify the sheriff. If the defendant at the hearing before the judge is unable to post increased
19.6 bail or meet alternative conditions of release in accordance with rule 6.03 of the Rules of
19.7 Criminal Procedure, the sheriff or a deputy shall take the defendant into custody.

19.8 (f) A person working at the direction of a surety or supervising bail bond agency to arrest
19.9 a defendant must possess a valid bail bond enforcement agent license issued under this
19.10 chapter.