

Sixty-fourth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1126

Introduced by

Judiciary Committee

(At the request of the Insurance Commissioner)

1 A BILL for an Act to create and enact section 26.1-26.6-07.1 of the North Dakota Century Code,
2 relating to registered recovery agents; to amend and reenact sections 26.1-26.6-01,
3 26.1-26.6-04, 26.1-26.6-05, and 26.1-26.6-07 of the North Dakota Century Code, relating to bail
4 bond agents, recovery agents, and defendant retrieval; and to provide a penalty.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1. AMENDMENT.** Section 26.1-26.6-01 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **26.1-26.6-01. ~~Definition~~Definitions.**

9 As used in this chapter, unless the context otherwise requires, ~~"bail~~:

- 10 1. "Bail bond agent" means any person ~~who~~that has been licensed by the commissioner
11 and appointed by an insurer by power of attorney to execute or countersign bail bonds
12 for the insurer in connection with the judicial proceedings and charges and receives
13 money for the services.
- 14 2. "Registered recovery agent" means any person that has been registered by the
15 commissioner under this chapter and to whom the security has transferred arrest
16 authority to take into custody a defendant on a bail bond.

17 **SECTION 2. AMENDMENT.** Section 26.1-26.6-04 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **26.1-26.6-04. ~~Qualification~~Appointment and license as bail bond agent - Pledge of
20 property as security - Penalty.**

21 A person may not act in the capacity of a bail bond agent or perform any of the functions,
22 duties, or powers prescribed for a bail bond agent under this chapter unless that person is
23 ~~qualified~~appointed and licensed as provided in this chapter. However, this section does not
24 prohibit any individual from pledging real or other property as security for a bail bond in judicial

1 proceedings if the individual does not receive, or is not promised, money or other things of
2 value therefor. Violation of this section is a class BA misdemeanor.

3 **SECTION 3. AMENDMENT.** Section 26.1-26.6-05 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **26.1-26.6-05. Violations - Penalties.**

- 6 1. The commissioner may suspend, revoke, or refuse to continue, issue, or renew any
7 license issued under this chapter if, after notice to the licensee and hearing, the
8 commissioner finds as to the licensee any of the following conditions:
- 9 a. Recommending any particular attorney at law to handle the case in which the bail
10 bond agent has caused a bond to be issued under this chapter.
 - 11 b. Forging the name of another to a bond or application for bond.
 - 12 c. Soliciting business in or about any place for prisoners or persons confined,
13 arraigned, or in custody.
 - 14 d. Paying a fee or rebate, or giving or promising anything of value to a jailer, trustee,
15 police officer or officer of the law, or any other person who has power to arrest or
16 hold in custody or to any public official or public employee in order to secure a
17 settlement, compromise, remission, or reduction of the amount of any bail bond
18 or entreatment thereof, or to secure, delay, or other advantage. This subdivision
19 does not apply to a jailer, police officer, or officer of the law who is not on duty
20 and who assists in the apprehension of a defendant.
 - 21 e. Paying a fee or rebating or giving anything of value to an attorney in bail bond
22 matters, except in defense of any action on a bond.
 - 23 f. Accepting anything of value from a principal other than a premium. Provided, the
24 bail bond agent may accept collateral security or other indemnity from the
25 principal which must be returned immediately upon final termination of liability on
26 the bond. Such collateral security or other indemnity required by the bail bond
27 agent must be reasonable in relation to the amount of the bond.
 - 28 g. Willfully failing to return collateral security to the principal when the principal is
29 entitled to the security.
 - 30 h. Knowingly employing a person whose insurance producer license has been
31 revoked, suspended, or denied in this or any other state.

1 i. Knowingly or intentionally executing a bail bond without collecting in full a
2 premium for the bond, at the premium rate as filed with and approved by the
3 commissioner.

4 j. Failing to pay any forfeiture as directed by a court and as required by this
5 chapter.

6 2. For purposes of subdivisions f and g of subsection 1, a bail bond agent shall monitor
7 the status of bonds written by the bail bond agent to make timely return of the
8 collateral security to the principal. It is not a defense to administrative action under this
9 section that the bail bond agent did not know liability on the bond had been terminated
10 or that the principal was entitled to return of the security.

11 3. A bail bond agent or bail bond agency may not advertise as or hold itself out to be a
12 surety company.

13 ~~3.4.~~ A bail bond agent may not sign nor countersign any blank in any bond, nor give up
14 power of attorney to or otherwise authorize, anyone to countersign the bail bond
15 agent's name to bonds.

16 ~~4.5.~~ When a bail bond agent accepts collateral, the bail bond agent shall give a written
17 receipt for the collateral and this receipt must contain a full description of the collateral
18 received in the terms of redemption. The bail bond agent shall keep copies of all
19 receipts of the bonds to be placed in business to be available to the commissioner for
20 the commissioner's review.

21 ~~5.6.~~ The provisions and penalties under this section are in addition to those provided under
22 chapter 26.1-26.

23 **SECTION 4. AMENDMENT.** Section 26.1-26.6-07 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **26.1-26.6-07. Surrender of defendant prior to breach- Penalty.**

26 ~~At any time before there has been a breach of the undertaking in any type of bail provided~~
27 ~~herein~~

28 1. At any time after a defendant has been released from custody pursuant to a bail bond,
29 the surety or, bail bond agent, or registered recovery agent may surrender the
30 defendant, or the defendant may surrender, to the official to whose custody the
31 defendant would have been given had the defendant been committed. The defendant

1 may be surrendered without the return of premium for the bond if the defendant has
2 been guilty of nonpayment of premium, changing address without notifying the bail
3 bond agent, self-concealment, or leaving the jurisdiction of the court without the
4 permission of the bail bond agent, or of violating the defendant's contract with the bail
5 bond agent in any way that does harm to the bail bond agent, the registered recovery
6 agent, or the surety, or violates the obligation to the court.

7 2. For the purpose of surrendering the defendant, the surety, bail bond agent acting as
8 an agent for the surety, or registered recovery agent may arrest the defendant ~~before~~
9 ~~the forfeiture of the undertaking~~, or by written authority endorsed on a certified copy of
10 the undertaking, may empower any peace officer to make arrest, first paying the lawful
11 fees therefor.

12 3. A person may not engage in the business of taking or attempting to take into custody a
13 defendant on a bail bond, unless the person:

14 a. Is the surety that issued the bail bond;

15 b. Is a bail bond agent and is an appointed agent of the surety; or

16 c. Is a registered recovery agent.

17 4. Violation of this section is a class C felony.

18 **SECTION 5.** Section 26.1-26.6-07.1 of the North Dakota Century Code is created and
19 enacted as follows:

20 **26.1-26.6-07.1. Registered recovery agents.**

21 The commissioner shall register recovery agents. The licensing and continuing education
22 requirements under chapter 26.1-26 do not apply to registered recovery agents. The
23 commissioner shall adopt rules establishing a registration fee, qualifications for registration, and
24 the process and terms for registration renewal and revocation.