

ASSEMBLY BILL

No. 2449

Introduced by Assembly Member Eggman

February 19, 2016

An act to amend Section 1811 of, and to add Section 1824 to, the Insurance Code, relating to insurance.

LEGISLATIVE COUNSEL'S DIGEST

AB 2449, as introduced, Eggman. Insurance: bail licenses.

Existing law provides for the issuance of bail licenses under the jurisdiction of the Insurance Commissioner for bail agents, bail permittees, and bail solicitors. Existing law requires persons soliciting or negotiating the execution or delivery of an undertaking of bail on behalf of a surety insurer to be licensed as a bail agent. Existing law requires the commissioner to charge and collect specified fees for an application for a new or renewed bail license by a bail agent, bail permittee, or bail solicitor.

This bill would increase the fees for an application for a new or renewed bail license, as specified. The bill would require each surety insurer or bail permittee to pay a fee, not to exceed \$10 per bail bond transaction. These fees would go to the Bail Investigation and Prosecution Fund, created as a special account in the Insurance Fund. The bill would provide that moneys in the Bail Investigation and Prosecution Fund be distributed by the commissioner, upon appropriation, to fund the reasonable costs incurred in regulating entities involved in the undertaking of bail, as specified. The bill would provide that if the total amount in the Bail Investigation and Prosecution Fund ever exceeds \$8,000,000, then the commissioner shall reduce the amount of the assessment, as specified. The bill would authorize the

commissioner to develop guidelines to implement or clarify these provisions. The bill would require the commissioner to provide an annual report on the department’s Internet Web site including various information, as specified. The bill would make related legislative findings and declarations.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declare as follows:
- 2 (a) Currently, bail agents, as defined in Section 1802 of the
- 3 California Insurance Code, pay five hundred sixty-six dollars
- 4 (\$566) for a two-year license and one hundred seventy dollars
- 5 (\$170) for a license renewal. Bail permittees, as defined in Section
- 6 1802.5 of the Insurance Code, pay one thousand one hundred
- 7 thirty-four dollars (\$1,134) for a two-year license and seven
- 8 hundred sixteen dollars (\$716) for a license renewal. Bail solicitors,
- 9 as defined in Section 1803 of the Insurance Code, pay five hundred
- 10 sixty-six dollars (\$566) for a two-year license and one hundred
- 11 seventy dollars (\$170) for a license renewal.
- 12 (b) Section 12978 of the Insurance Code states that the
- 13 cumulative amount that fees may be increased or decreased shall
- 14 be the amount necessary to provide sufficient moneys to carry out
- 15 the projected workload of the Department of Insurance.
- 16 (c) In the past five years, the seriousness and the number of bail
- 17 complaints received by the department have steadily increased.
- 18 (d) Despite the fact that bail products are less than 2 percent of
- 19 the insurance market, bail complaints account for roughly 10
- 20 percent of the Reports of Suspected Violation workload of the
- 21 department’s Enforcement Branch.
- 22 (e) The limited resources of the department do not currently
- 23 allow for a sufficiently comprehensive bail enforcement program.
- 24 Additional resources are needed to create an aggressive prevention,

1 investigation, and prosecution program dedicated to eliminating
2 illegal bail schemes, and additionally to increase outreach and
3 education, particularly to bail professionals, on bail laws in
4 California.

5 (f) Legislation is necessary that would provide the department
6 with the resources to eliminate the bail complaint backlog, and
7 more fully investigate illegal bail practices, by more appropriately
8 aligning the licensing fees paid by bail agents, bail permittees, and
9 bail solicitors, and by creating a Bail Investigation and Prosecution
10 Fund within the department. The fund would contain resources
11 from increased licensing fees for bail professionals and from the
12 imposition of a fee of ten dollars (\$10) per bond transaction in
13 California. A portion of the moneys in the fund would be
14 distributed to district attorneys and city attorneys to prosecute these
15 cases.

16 (g) Effective bail enforcement by the department produces
17 numerous benefits to both the bail bond industry and consumers
18 who purchase bail products. Consumers are protected from
19 predatory tactics by unscrupulous bail agents, and the bail industry
20 benefits from improved customer confidence.

21 (h) A well-regulated bail industry reduces business and
22 transaction costs for industry members, who benefit when business
23 partners perceive less risk from engagement with the bail industry,
24 and it fosters competitive bail markets by ensuring a level playing
25 field for all members of the bail industry.

26 SEC. 2. Section 1811 of the Insurance Code is amended to
27 read:

28 1811. For his services in connection with the filing of any
29 application or request for any license under this chapter, the
30 commissioner shall charge and collect the following fees:

31 (a) For filing an application or request for bail agent's license,
32 ~~one hundred eighteen dollars (\$118)~~ *one thousand one hundred*
33 *thirty-two dollars (\$1,132)* per year.

34 (b) For filing an application or request for bail solicitor's license,
35 ~~one hundred eighteen dollars (\$118)~~ *one thousand one hundred*
36 *thirty-two dollars (\$1,132)* per year.

37 (c) For filing an application or request for bail permittee's
38 license, ~~two hundred thirty-six dollars (\$236)~~ *two thousand two*
39 *hundred sixty-eight dollars (\$2,268)*.

- 1 (d) For filing an application for examination, or reexamination,
 2 twenty-four dollars (\$24).
- 3 (e) For a renewal application, a fee of ~~thirty-five dollars (\$35)~~
 4 *three hundred forty dollars (\$340)* per year. In the case of a bail
 5 agent with more than one valid notice of appointment on file, the
 6 fee to be charged pursuant to this subdivision shall be the fee
 7 provided herein multiplied by the number of insurers whose valid
 8 appointments are on file at the date the document is filed unless
 9 the bail agent in that document advises the commissioner of his
 10 or her intent to terminate the appointment of one or more of those
 11 insurers, in which event the fee shall be based upon the number
 12 for insurers remaining.
- 13 (f) For a bail solicitor’s renewal application, a fee of ~~thirty-five~~
 14 ~~dollars (\$35)~~ *three hundred forty dollars (\$340)* per year.
- 15 (g) For a bail permittee’s renewal application, a fee of ~~one~~
 16 ~~hundred forty-eight dollars (\$148)~~ per year. *one thousand one*
 17 *hundred thirty-two dollars (\$1,132)*.
- 18 (h) At the time of filing an application for a license, if a
 19 qualifying examination is required for issue or in connection with
 20 the license, the fee for filing the first application to take the
 21 qualifying examination shall be paid at the time of filing application
 22 for the license.
- 23 (i) For filing application or request for approval of a true or
 24 fictitious name pursuant to Section 1724.5, twelve dollars (\$12),
 25 except that there shall be no fee when the name is contained in an
 26 original application.
- 27 (j) For filing a bond required by this chapter, except when the
 28 bond constitutes part of an original application, ten dollars (\$10).
- 29 (k) For filing a first amendment to an application, six dollars
 30 (\$6).
- 31 (l) For filing a second and each subsequent amendment to an
 32 application, twelve dollars (\$12).
- 33 SEC. 3. Section 1824 is added to the Insurance Code, to read:
 34 1824. (a) The Bail Investigation and Prosecution Fund is
 35 hereby created as a special account within the Insurance Fund.
 36 Each surety insurer or bail permittee admitted and authorized to
 37 execute an undertaking of bail in this state through a licensed bail
 38 licensee shall pay a fee per bail bond transaction, not to exceed
 39 ten dollars (\$10) for each bail bond posted in this state. The revenue

1 from this fee shall be deposited into the Bail Investigation and
2 Prosecution Fund.

3 (b) Moneys in the Bail Investigation and Prosecution Fund shall
4 be distributed, upon appropriation by the Legislature, to fund the
5 reasonable costs incurred in regulating entities involved in the
6 undertaking of bail as described in this section. Moneys in the Bail
7 Investigation and Prosecution Fund shall not be used for any other
8 purpose. Moneys in the Bail Investigation and Prosecution Fund
9 shall be distributed by the commissioner as follows:

10 (1) Seventy percent of these funds shall be distributed within
11 the department for consumer enforcement and protection purposes
12 related to bail transactions, including, but not limited to:

13 (A) Investigating and prosecuting unlawful conduct by bail
14 licensees, or a person or entity purporting to solicit or negotiate in
15 respect to execution or delivery of an undertaking of bail or bail
16 bond, or execute or deliver an undertaking of bail or bail bond, or
17 matters subsequent to the execution of an undertaking of bail or
18 bail bond contract and arising out of it.

19 (B) Responding to consumer inquiries and complaints related
20 to bail transactions.

21 (C) Regulating and overseeing bail bond products, solicitation,
22 and advertising directed toward consumers.

23 (D) The cost of any fiscal audit performed pursuant to this
24 section.

25 (2) Thirty percent of the funds shall be distributed to county
26 district attorneys and city attorneys, for investigating and
27 prosecuting surety insurer and bail abuse cases involving licensees,
28 or any person or entity engaged in the solicitation or negotiation
29 in respect to execution or delivery of an undertaking of bail or bail
30 bond, or execution or delivery of an undertaking of bail or bail
31 bond.

32 (A) The commissioner shall distribute funds to county district
33 attorneys and city attorneys who show a likely positive outcome
34 that will benefit consumers in the local jurisdiction based on
35 specific criteria promulgated by the commissioner. Each local
36 district attorney and city attorney desiring a portion of those funds
37 shall submit to the commissioner an application, including, at a
38 minimum, all of the following:

39 (i) The proposed use of the moneys and the anticipated outcome.

1 (ii) A list of all prior relevant cases or projects and a copy of
2 the final accounting for each. If cases or projects are ongoing, the
3 most recent accounting shall be provided.

4 (iii) A detailed budget, including salaries and general expenses,
5 specifically identifying the cost of purchase or rental of equipment
6 or supplies.

7 (B) Each district attorney and city attorney who receives funds
8 pursuant to this section shall submit a final detailed accounting at
9 the conclusion or closure of each case or project. For cases or
10 projects that continue longer than six months, interim accountings
11 shall be submitted every six months, or as otherwise directed by
12 the commissioner.

13 (C) Each district attorney and city attorney who receives funds
14 pursuant to this section shall submit a final report to the
15 commissioner, which may be made public, as to the success of the
16 cases or projects conducted. The report shall provide information
17 and statistics on the number of active investigations, arrests,
18 indictments, and convictions. The applications for moneys, the
19 distribution of moneys, and the annual reports shall be public
20 documents.

21 (c) Notwithstanding any other provision of this section,
22 information submitted to the commissioner pursuant to this section
23 concerning criminal investigations, whether active or inactive,
24 shall be confidential.

25 (d) The commissioner may conduct a fiscal audit of the programs
26 administered under this subdivision. If conducted, this fiscal audit
27 shall be conducted by an internal audit unit of the department.

28 (e) If the commissioner determines that a district attorney or
29 city attorney is unable or unwilling to investigate or prosecute a
30 relevant bail abuse case, the commissioner may discontinue
31 distribution of funds allocated for that matter and may redistribute
32 those funds to other eligible district attorneys or city attorneys.

33 (f) If, as of June 30 of any calendar year, the total amount in
34 the Bail Investigation and Prosecution Fund exceeds eight million
35 dollars (\$8,000,000), the commissioner shall reduce the amount
36 of the assessment accordingly for the following year to eliminate
37 that excess. A surety insurer, upon receipt of an invoice, shall
38 transmit payment to the department for deposit in the Bail
39 Investigation and Prosecution Fund. Any balance remaining in the
40 Bail Investigation and Prosecution Fund at the end of the fiscal

1 year shall be retained in the account, to be available in the next
2 fiscal year.

3 (g) The commissioner may develop guidelines for implementing
4 or clarifying these provisions, including guidelines for the
5 allocation, distribution, and potential return of unused funds. The
6 commissioner may, from time to time, issue regulations for
7 implementing or clarifying these provisions.

8 (h) The commissioner shall provide a consolidated report
9 annually on the department's Internet Web site, which shall
10 include, but is not limited to, the following information:

11 (1) The number of consumer complaints regarding to bail bond
12 transactions.

13 (2) The number of investigations initiated relating to bail bond
14 transactions.

15 (3) The number of investigations related to bail and bail bond
16 transactions referred to and reported by prosecuting agencies.

17 (4) The number of administrative or regulatory cases related to
18 bail and bail bond transactions referred to the department's legal
19 division.

20 (5) The number of administrative or regulatory enforcement
21 actions taken in cases related to bail and bail bond transactions.

22 (i) A violation of this section is not a crime pursuant to Section
23 1814.

24 SEC. 4. The Legislature finds and declares that Section 3 of
25 this act, which adds Section 1824 to the Insurance Code, imposes
26 a limitation on the public's right of access to the meetings of public
27 bodies or the writings of public officials and agencies within the
28 meaning of Section 3 of Article I of the California Constitution.
29 Pursuant to that constitutional provision, the Legislature makes
30 the following findings to demonstrate the interest protected by this
31 limitation and the need for protecting that interest:

32 In order to ensure that criminal investigations are not frustrated
33 or hindered, it is necessary to limit the public's right of access to
34 information submitted to the Insurance Commissioner pursuant to
35 this act concerning criminal investigations.