



GOV. MSG. NO. 776

EXECUTIVE CHAMBERS
HONOLULU

LINDA LINGLE
GOVERNOR

June 3, 2008

The Honorable Colleen Hanabusa, President
and Members of the Senate
Twenty-Fourth State Legislature
State Capitol, Room 409
Honolulu, Hawaii 96813

Dear Madam President and Members of the Senate:

This is to inform you that on June 3, 2008, the following bill was signed into law:

SB1961 SD1 HD1 CD1

A BILL FOR AN ACT RELATING TO BAIL.
(ACT 134)

Sincerely,



LINDA LINGLE

8 10 11
11 12 13

Approved by the Governor

on JUN 3 2008

THE SENATE
TWENTY-FOURTH LEGISLATURE, 2007
STATE OF HAWAII

ACT 134
S.B. NO. 1961
S.D. 1
H.D. 1
C.D. 1

A BILL FOR AN ACT

RELATING TO BAIL.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 431, Hawaii Revised Statutes, is
2 amended by adding a new article to be appropriately designated
3 and to read as follows:

4 **"ARTICLE . BAIL AGENTS; SURETIES**

5 **§431: -A Definitions.** As used in this article:

6 "Bail agent" means a licensed insurance producer under
7 article 9A who is appointed by an authorized surety insurer,
8 furnishes bail for compensation in any court in this State, and
9 has the power of attorney to execute or countersign bail bonds in
10 connection with judicial proceedings. "Bail agent" shall not
11 include a person who is a full-time salaried officer or employee
12 of an insurer or a person who pledges United States currency, a
13 United States postal money order, a cashier's check, or other
14 property as security for a bail bond in connection with a
15 judicial proceeding, whether for compensation or otherwise.



1 "On the board" means that the name of a bail agent has been
2 publicly posted or disseminated by a court as being ineligible to
3 write bail bonds.

4 **§431: -B License denial, nonrenewal, suspension, or**
5 **revocation.** In addition to causes in section 431:9A-112, the
6 commissioner may deny, place on probation, suspend, revoke, or
7 refuse to issue or renew a bail agent's license and may levy a
8 civil fine or penalty in accordance with articles 2 and 9A, or
9 any combination of these actions, for any of the following
10 causes:

- 11 (1) Failing to satisfy, pay, or otherwise discharge a bail
12 forfeiture judgment after having the bail agent's name
13 placed on the board for more than forty-five
14 consecutive days for the same forfeiture;
- 15 (2) Failing to report, to preserve without use and retain
16 separately, or to return collateral taken as security
17 on any bond to the principal or depositor of the
18 collateral;
- 19 (3) Failing to pay a final, nonappealable judgment award
20 for failure to return or repay collateral received to
21 secure a bond;



1 (4) Continuing to execute bail bonds in any court in this
2 State while on the board, where the bail forfeiture
3 judgment that resulted in being placed on the board
4 has not been paid, stayed, vacated, exonerated, or
5 otherwise discharged; or

6 (5) Paying, directly or indirectly, any commission,
7 service fee, brokerage, or other valuable
8 consideration to any person selling, soliciting, or
9 negotiating bail within this State unless, at the time
10 the services were performed, the person was a duly
11 licensed bail agent for the performance of the
12 services.

13 **§431: -C Fiduciary responsibilities.** (a) In addition to
14 the requirements of section 431:9A-123.5, bail agents shall have
15 the responsibilities of a trustee for all premium, return
16 premium funds, and collateral or security received or collected
17 under this article.

18 (b) All premiums received, less commissions if authorized,
19 shall be remitted to the insurer on or before the contractual
20 due date or, if there is no contractual due date, within forty-
21 five days after receipt.



1 (c) All returned premiums received from or credited by
2 insurers to the account of the bail agent shall be remitted to
3 or credited to the account of the person entitled thereto within
4 thirty days after the receipt or credit.

5 (d) An insurer having knowledge that a bail agent has
6 failed to account for any collected premium to the insurer more
7 than forty-five days after the contractual due date or, if there
8 is no contractual due date, more than ninety days after receipt,
9 shall promptly report the failure to the commissioner in
10 writing.

11 (e) Every insurer shall remit unearned premium funds to
12 the person entitled thereto or shall otherwise credit the
13 account of the bail agent as soon as is practicable after
14 entitlement to the premium funds has been established, but in no
15 event more than forty-five days after the effective date of any
16 cancellation or termination effected by the insurer or after the
17 date of entitlement thereto, as established by notification of
18 cancellation or of termination or as otherwise established. A
19 bail agent having knowledge of a failure on the part of any
20 insurer to comply with this subsection shall promptly report the
21 failure to the commissioner in writing.



1 (f) No bail agent shall commingle premiums belonging to
2 insurers and return premiums received or held by the bail agent
3 or persons entitled to such funds with the bail agent's personal
4 funds or with any other funds except those directly connected
5 with the bail agent's bail business.

6 §431: -D Bail agent not to act as attorney. A bail agent
7 who is also an attorney shall not represent a person to whom the
8 attorney has furnished bail for compensation in any proceeding
9 for which the attorney has furnished bail. The commissioner may
10 place on probation, suspend, revoke, or refuse to renew a bail
11 agent's license and may levy a civil fine or penalty in
12 accordance with articles 2 and 9A, or any combination of these
13 actions, for violation of this section."

14 SECTION 2. In codifying the new sections added by section
15 1 of this Act, the revisor of statutes shall substitute
16 appropriate section numbers for the letters used in designating
17 the new sections in this Act.

18 SECTION 3. This Act shall take effect on July 1, 2008.

APPROVED this 3 day of JUN , 2008


GOVERNOR OF THE STATE OF HAWAII

