

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

**SESSION LAW 2005-240
SENATE BILL 707**

AN ACT TO CLARIFY THAT THE THIRTY-DAY DEADLINES IMPOSED UPON AGENTS AND BAIL BONDSMEN SEEKING INTERNAL ADMINISTRATIVE REVIEW OF A DENIAL OF LICENSURE AND SUBSEQUENTLY SEEKING A HEARING UNDER ARTICLE 3A OF CHAPTER 150B OF THE GENERAL STATUTES ARE MANDATORY, NOT OPTIONAL.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 58-33-30(g) reads as rewritten:

"(g) Denial of License. – If the Commissioner finds that the applicant has not fully met the requirements for licensing, ~~he the Commissioner~~ shall refuse to issue the license and shall notify in writing the applicant and the appointing insurer, if any, of ~~such the~~ denial, stating the grounds ~~therefor.~~ for the denial. The application may also be denied for any reason for which a license may be suspended or revoked or not renewed under G.S. 58-33-46. ~~Within 30 days after service of the notification, the applicant may~~ In order for an applicant to be entitled to a review of the Commissioner's action to determine the reasonableness of the action, the applicant must make a written demand upon the Commissioner for a review to determine the reasonableness of the Commissioner's action, no later than 30 days after service of the notification upon the applicant. The review shall be completed without undue delay, and the applicant shall be notified promptly in writing ~~as to the~~ of the outcome of the review. ~~Within 30 days after service of the notification as to the outcome, the applicant may~~ In order for an applicant who disagrees with the outcome of the review to be entitled to a hearing under Article 3A of Chapter 150B of the General Statutes, the applicant must make a written demand upon the Commissioner for a hearing under Article 3A of Chapter 150B of the General Statutes if the applicant disagrees with the outcome, no later than 30 days after service upon the applicant of the notification of the outcome."

SECTION 2. G.S. 58-71-85(b) reads as rewritten:

"(b) Whenever the Commissioner denies an initial application for a license or an application for a reissuance of a license, ~~he the Commissioner~~ shall notify the applicant and advise, in writing, the applicant of the reasons for the denial of the license. The application may also be denied for any reason for which a license may be suspended or revoked or not renewed under G.S. 58-71-80(a). ~~Within 30 days after service of the notification, the applicant may~~ In order for an applicant to be entitled to a review of the Commissioner's action to determine the reasonableness of the action, the applicant must make a written demand upon the Commissioner for a review to determine the reasonableness of the Commissioner's action, no later than 30 days after service of the notification upon the applicant. The review shall be completed without undue delay, and the applicant shall be notified promptly in writing ~~as to~~ of the outcome of the review. ~~Within 30 days after service of the notification as to the outcome, the applicant may~~ In order for an applicant who disagrees with the outcome of the review to be entitled to a hearing under Article 3A of Chapter 150B of the General Statutes, the applicant must make a written demand upon the Commissioner for a hearing under Article 3A of Chapter 150B of the General Statutes if the applicant disagrees with the outcome, no later than 30 days after service upon the applicant of the notification of the outcome."

SECTION 3. Article 71 of Chapter 58 of the General Statutes is amended by adding the following new section:

"§ 58-71-151. Securities held in trust by Commissioner; authority to dispose of same.

The securities deposited by a professional bondsman with the Commissioner shall be held in trust for the protection and benefit of the holder of bail bonds executed by or on behalf of the undersigned bondsman in this State. Notwithstanding any other provision of law, the Commissioner is authorized to select a bank or trust company as master trustee to hold cash securities to be pledged to the State when deposited with the Commissioner pursuant to statute. Securities may be held by the master trustee in any form that in fact perfects the security interest of the State in the securities. The Commissioner shall by rule establish the manner in which the master trust shall operate. The master trustee may charge the person making the deposit reasonable fees for services rendered in connection with the operation of the trust, and the assets of the account may be used to pay such charges.

A pro rata portion of the securities shall be returned to the bondsman when the Commissioner is satisfied that the deposit of securities is in excess of the amount required to be maintained with the Commissioner by said bondsman; and all the securities shall be returned if the Commissioner is satisfied that the bondsman has satisfied, or satisfactory arrangements have been made to satisfy, the obligations of the bondsman on all the bondsman's bail bonds written in the State.

The Commissioner may sell or transfer any and all of said securities or utilize the proceeds thereof for the purpose of satisfying the liabilities of the professional bondsman on bail bonds given in this State on which the bondsman is liable."

SECTION 4. G.S. 58-71-150 is repealed.

SECTION 5. This act becomes effective October 1, 2005. This act applies to all notices of applications denied by the Commissioner served on or after that date and to all notices of review outcomes served on or after that date.

In the General Assembly read three times and ratified this the 20th day of July, 2005.

s/ Marc Basnight
President Pro Tempore of the Senate

s/ James B. Black
Speaker of the House of Representatives

s/ Michael F. Easley
Governor

Approved 2:12 p.m. this 29th day of July, 2005