

January 31, 2013

House Committee on Corrections and Juvenile Justice  
Kansas State Capitol  
300 SW 10<sup>th</sup> St.  
Topeka, Kansas 66612

**RE: Written Comments in SUPPORT of HB2070**

Ladies and Gentlemen of the Committee:

Thank you for the opportunity to submit this written testimony in **Support** of HB2070. Our company is writing to you on behalf of several of our bail agents in the great State of Kansas. My name is Jerry Watson, and I am the Chief Legal Officer for the nation's oldest and largest family of commercial bail underwriters, AIA. Also signing and supporting this written testimony is my colleague and General Counsel for AIA, James Portman. It is our understanding that House Bill 2070 is currently being reviewed by your committee. As your colleagues contemplate this important piece of legislation, we would appreciate a few moments of your time to share with the committee some valuable insights regarding the bail bond industry. We hope you will consider these insights while assessing House Bill 2070, especially as it relates to alternative release options, such as "own recognizance" release.

There are three significant changes outlined in HB2070 that we support and would like to address. The first change provided by the passing of HB2070, is the implementation of limitations on individuals that can be released on their "own recognizance". We believe that commercial bail offers a superior alternative to "own recognizance" release, as bail provides communities with greater protection from defendants deemed by the court to be dangerous while significantly increasing the likelihood that those defendants will attend their court appearances. These benefits extend beyond providing increased protection to communities, to both increasing the effectiveness of the pretrial justice system and reducing the fiscal constraint that is adversely impacting Kansas counties. We have outlined both types of benefits below.

**Economic Advantages**

- Commercial bail is one of the most effective, functional and significant tools in our system of criminal justice. It gives rise to economic advantages that are frequently overlooked. This includes both revenue generating mechanisms as well as cost saving tools for the county.
- Commercial Bail results in many economic benefits to both state and county governments including but not limited to:
  - Insurance premium taxes
  - Forfeitures
  - Savings from higher appearance rates
  - The uncalculated cost of recidivism

- A recent study conducted by the University of Texas at Dallas showed that commercial surety bail saved Dallas County over \$11 Million in court costs from those failing to appear, which monies would have been lost had not commercial bail been the chosen method of pretrial release.
- Through the underwriting process, commercial bail binds a third party (family, friends, colleagues, etc.) to the bail contract ensuring greater oversight and increased accountability which results in higher appearance rates and lower recidivistic behavior.
- Often when an individual is released on their “own recognizance” and they fail to appear before the court, they are not pursued, thus leaving the county to hold an uncollectable judgment and placing local communities at risk. Commercial bail agents provide greater fiscal accountability and operational accountability for the county pretrial justice system. Bail agents insure the appearance of the defendant, and if the defendant fails to appear, they will pursue and usually recover the defendant. Upon apprehension of the defendant, the agent will collect the full amount owing and remit it to the court. With “own recognizance” release these significant benefits are lost.

### **Effective in Securing Appearance**

- The administration of justice is unattainable through the implementation of “own recognizance” pretrial release as it does not effectively assure a defendant’s appearance. Secured release, through commercial bail, provides the most effective mechanism to achieve the objective of administering justice. .
- The largest and most comprehensive study, comparing secured (surety bail) and unsecured release methodologies for assuring the defendant’s presence in court, has found that the failure to appear rate on secured release was 20% lower than the rate for unsecured release (Eric Helland & Alexander Tabarrok, *The Fugitive: Evidence on the Public versus Private Law Enforcement from Bail Jumping*, 47 J.L & ECON. 93,118 – (2004)).
- Two out of the four states without commercial bail are currently in the process of reintroducing commercial bail (Oregon and Wisconsin) to help them increase the effectiveness of their criminal justice systems and reduce the costs associated with using alternative “pretrial release programs.”
- The city of Philadelphia has recently turned to the commercial bail industry to help solve its criminal justice system’s “revolving door” issue and to return accountability to the system and restore public safety in the city’s many communities.

Second, HB2070 requires that anyone who is apprehending a fugitive be required to be a licensed Kansas bail agent. The use of required licensing is prevalent in many other states around the county and ensures increased compliance with applicable laws, regulations and legal constraints by the recovery agent.

Lastly, HB2070 adds the restriction that any individual with a felony conviction on their record will be prohibited from receiving a bail agent license. The current requirement in Kansas states that the felony conviction cannot have occurred in the last ten years. By introducing a provision that limits licensing to those with no prior felony convictions, Kansas will be taking greater precautions and the necessary steps to ensure that those individuals who participate in the bail bond industry are principled and maintain the highest ethical standard.

We hope that you take these important points into consideration as you consider the future of your criminal justice system and the safety of your communities. If you would like any additional information on this subject, please do not hesitate to contact my office with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Jerry Watson". The signature is fluid and cursive, with a long horizontal stroke at the end.

Jerry Watson  
Chief Legal Officer - AIA

A handwritten signature in black ink, appearing to read "James Portman". The signature is cursive and somewhat stylized, with a long vertical stroke at the end.

James Portman  
Assistant Vice President, Bail Counsel