

By: Senator(s) Carmichael, Jackson (11th)

To: Insurance

SENATE BILL NO. 2677
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 83-39-3, MISSISSIPPI CODE OF 1972, TO
2 REVISE CERTAIN LICENSING REQUIREMENTS; TO AMEND SECTION 83-39-15,
3 MISSISSIPPI CODE OF 1972, TO REVISE GROUNDS FOR DENIAL,
4 SUSPENSION, REVOCATION AND REFUSAL TO RENEW LICENSES; TO AMEND
5 SECTION 83-39-23, MISSISSIPPI CODE OF 1972, TO REVISE NOTICE TO
6 SHERIFFS AND JUDICIAL OFFICIALS; TO AMEND SECTION 99-5-1,
7 MISSISSIPPI CODE OF 1972, IN CONFORMITY; TO AMEND SECTION
8 83-39-29, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT PERSONS OR
9 ENTITIES WHO MONITOR OR SUPERVISE CERTAIN DEFENDANTS WITHOUT A
10 BAIL AGENT LICENSE SHALL BE SUBJECT TO CRIMINAL PENALTIES; TO
11 CREATE SECTION 83-39-30, MISSISSIPPI CODE OF 1972, TO PROVIDE
12 PENALTIES FOR VIOLATIONS REGARDING ILLEGAL BUSINESS REFERRALS TO
13 BAIL AGENTS; AND FOR RELATED PURPOSES.

14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

15 **SECTION 1.** Section 83-39-3, Mississippi Code of 1972, is
16 amended as follows:

17 83-39-3. (1) No person shall act in the capacity of
18 professional bail agent, soliciting bail agent or bail enforcement
19 agent, as defined in Section 83-39-1, or perform any of the
20 functions, duties or powers of the same unless that person shall
21 be qualified and licensed as provided in this chapter. The terms
22 of this chapter shall not apply to any automobile club or
23 association, financial institution, insurance company or other



24 organization or association or their employees who execute bail
25 bonds on violations arising out of the use of a motor vehicle by
26 their members, policyholders or borrowers when bail bond is not
27 the principal benefit of membership, the policy of insurance or of
28 a loan to such member, policyholder or borrower.

29 (2) (a) No license shall be issued or renewed except in
30 compliance with this chapter, and none shall be issued except to
31 an individual. No firm, partnership, association or corporation,
32 as such, shall be so licensed. No professional bail agent shall
33 operate under more than one (1) trade name. A soliciting bail
34 agent and bail enforcement agent shall operate only under the
35 professional bail agent's name. No license shall be issued to or
36 renewed for any person who has ever been convicted of a felony or
37 any crime involving moral turpitude or who is under twenty-one
38 (21) years of age. No person engaged as a law enforcement or
39 judicial official or attorney shall be licensed hereunder. A
40 person who is employed in any capacity at any jail or corrections
41 facility that houses state, county or municipal inmates who
42 are * * * or may be eligible for bail, whether the person is a
43 public employee, independent contractor, or the employee of an
44 independent contractor, may not be licensed under this section.

45 (b) (i) No person who is a relative of either a sworn
46 state, county or municipal law enforcement official or judicial
47 official, or an employee, independent contractor or the
48 contractor's employee of any police department, sheriff's



49 department, jail or corrections facility that houses or holds
50 federal, state, county or municipal inmates who are * * * or may
51 be eligible for bail, shall write a bond in the county where the
52 law enforcement entity or court in which the person's relative
53 serves is located. "Relative" means a spouse, parent,
54 grandparent, child, sister, brother, or a consanguineous aunt,
55 uncle, niece or nephew. Violation of this prohibition shall
56 result in license revocation.

57 (ii) No person licensed under this chapter shall
58 act as a personal surety agent in the writing of bail during a
59 period he or she is licensed as a limited surety agent, as defined
60 herein.

61 (iii) No person licensed under this chapter shall
62 give legal advice or a legal opinion in any form.

63 (3) The department is vested with the authority to enforce
64 this chapter. The department may conduct investigations or
65 request other state, county or local officials to conduct
66 investigations and promulgate such rules and regulations as may be
67 necessary for the enforcement of this chapter. The department may
68 establish monetary fines and collect such fines as necessary for
69 the enforcement of such rules and regulations. All fines
70 collected shall be deposited in the Special Insurance Department
71 Fund for the operation of that agency.

72 (4) (a) Each license issued hereunder shall expire
73 biennially on the last day of September of each odd-numbered year,



74 unless revoked or suspended prior thereto by the department, or
75 upon notice served upon the commissioner by the insurer that the
76 authority of a limited surety agent to act for or * * * on behalf
77 of such insurer had been terminated, or upon notice served upon
78 the commissioner that the authority of a soliciting bail agent or
79 bail enforcement agent had been terminated by such professional
80 bail agent.

81 (b) A soliciting bail agent or bail enforcement agent
82 may, upon termination by a professional bail agent or upon his
83 cessation of employment with a professional bail agent, be
84 relicensed without having to comply with the provisions of
85 subsection (7) (a) and (b) of this section, if he has held a
86 license in his respective license category within ninety (90) days
87 of the new application, meets all other requirements set forth in
88 Section 83-39-5 and subsection (7) (b) of this section, and
89 notifies the previous professional bail agent in writing that he
90 is submitting an application for a new license. * * *

91 (5) The department shall prepare and deliver to each
92 licensee a license showing the name, address and classification
93 of * * * the licensee, and shall certify that the person is a
94 licensed professional bail agent, being designated as a personal
95 surety agent or a limited surety agent, a soliciting bail agent or
96 a bail enforcement agent. In addition, the license * * * of a
97 soliciting bail agent or bail enforcement agent, shall show the



98 name of the professional bail agent and any other information as
99 the commissioner deems proper.

100 (6) The commissioner, after a hearing under Section
101 83-39-17, may refuse to issue a privilege license for a soliciting
102 bail agent to change from one (1) professional bail agent to
103 another if he owes any premium or debt to the professional bail
104 agent with whom he is currently licensed. The commissioner, after
105 a hearing under Section 83-39-17, shall refuse to issue a license
106 for a limited surety agent if he owes any premium or debt to an
107 insurer to which he has been appointed. If a license has been
108 granted to a limited surety agent or a soliciting bail agent who
109 owed any premium or debt to an insurer or professional bail agent,
110 the commissioner, after a hearing under Section 83-39-17, shall
111 revoke the license.

112 (7) (a) Before the issuance of any initial professional
113 bail agent, soliciting bail agent or bail enforcement agent
114 license, the applicant shall submit proof of successful completion
115 of forty (40) classroom hours of prelicensing education approved
116 by the Professional Bail Agents Association of Mississippi, Inc.,
117 and conducted by persons or entities approved by the Professional
118 Bail Agents Association of Mississippi, Inc., * * * unless the
119 applicant is currently licensed under this chapter on July 1,
120 2014, and has maintained that license in compliance with the
121 continuing education requirements of subsection (8) of this
122 section. The hours required by this subsection shall be classroom



123 hours and may not be acquired through correspondence or over the
124 Internet. Any applicant who has met all continuing education
125 requirements as set forth in subsection (8)(a) of this section and
126 has been properly licensed under this chapter within ninety (90)
127 days of submitting an application for a * * * license * * * shall
128 not be subject to the prelicensing education requirement.

129 (b) All applicants for a professional bail agent,
130 soliciting bail agent or bail enforcement agent license applying
131 for an original license after July 1, 2014, shall successfully
132 complete a limited examination by the department for the
133 restricted lines of business before the license can be issued;
134 however, this examination requirement shall not apply to any
135 licensed bail soliciting agent and bail enforcement agent
136 transferring to another professional bail agent license, any
137 licensed bail soliciting agent applying for a bail enforcement
138 agent license, and any licensed bail enforcement agent applying
139 for a bail soliciting agent license. An applicant shall only be
140 required to successfully complete the limited examination once.

141 (* * *c) Beginning on July 1, 2011, in order to assist
142 the department in determining an applicant's suitability for a
143 license under this chapter, the applicant shall submit a set of
144 fingerprints with the submission of an application for license.
145 The department shall forward the fingerprints to the Department of
146 Public Safety for the purpose of conducting a criminal history
147 record check. If no disqualifying record is identified at the



148 state level, * * * the Department of Public Safety shall forward
149 the fingerprints to the Federal Bureau of Investigation for a
150 national criminal history record check. Fees related to the
151 criminal history record check shall be paid by the applicant to
152 the commissioner and the monies from such fees shall be deposited
153 in the special fund in the State Treasury designated as the
154 "Insurance Department Fund."

155 (8) (a) Before the renewal of the license of any
156 professional bail agent, soliciting bail agent or bail enforcement
157 agent, the applicant shall submit proof of successful completion
158 of continuing education hours as follows:

159 (i) There shall be no continuing education
160 required for the first licensure year * * *;

161 (ii) Except as provided in subparagraph (i), eight
162 (8) classroom hours of continuing education for each year or part
163 of a year of the two-year license period, for a total of sixteen
164 (16) hours per license period.

165 (b) If an applicant for renewal failed to obtain the
166 required eight (8) hours for each year of the license period
167 during the actual license year in which the education was required
168 to be obtained, the applicant shall not be eligible for a renewal
169 license but shall be required to obtain an original license and be
170 subject to the education requirements set forth in subsection (7).
171 The commissioner shall not be required to comply with Section



172 83-39-17 in denying an application for a renewal license under
173 this paragraph (b).

174 (c) The education hours required under this subsection
175 (8) shall consist of classroom hours approved by the Professional
176 Bail Agents Association of Mississippi, Inc., and provided by
177 persons or entities approved by the Professional Bail Agents
178 Association of Mississippi, Inc. The hours required by this
179 subsection shall be classroom hours and may not be acquired
180 through correspondence or over the Internet.

181 (d) The continuing education requirements under this
182 subsection (8) shall not be required for renewal of a * * * bail
183 agent license for any applicant who is sixty-five (65) years of
184 age and who has been licensed as a * * * bail agent for a
185 continuous period of twenty (20) years immediately preceding the
186 submission of the application as evidenced by submission of an
187 affidavit, under oath, on a form prescribed by the department,
188 signed by the licensee attesting to satisfaction of the age,
189 licensing, and experience requirements of this paragraph (d).

190 (9) No license as a professional bail agent shall be issued
191 unless the applicant has been duly licensed by the department as a
192 soliciting bail agent for a period of three (3) consecutive years
193 immediately preceding the submission of the application. However,
194 this subsection (9) shall not apply to any person who was licensed
195 as a professional bail agent before July 1, 2011.



196 (10) A nonresident person may be licensed as a professional
197 bail agent, bail soliciting agent or bail enforcement agent if:

198 (a) The person's home state awards licenses to
199 residents of this state on the same basis; and

200 (b) The person has satisfied all requirements set forth
201 in this chapter.

202 **SECTION 2.** Section 83-39-15, Mississippi Code of 1972, is
203 amended as follows:

204 83-39-15. (1) The department may deny, suspend, revoke or
205 refuse to renew, as may be appropriate, a license to engage in the
206 business of professional bail agent, soliciting bail agent, or
207 bail enforcement agent for any of the following reasons:

208 (a) Any cause for which the issuance of the license
209 would have been refused had it then existed and been known to the
210 department.

211 (b) Failure to post a qualification bond in the
212 required amount with the department during the period the person
213 is engaged in the business within this state or, if the bond has
214 been posted, the forfeiture or cancellation of the bond.

215 (c) Material misstatement, misrepresentation or fraud
216 in obtaining the license.

217 (d) Willful failure to comply with, or willful
218 violation of, any provision of this chapter or of any proper
219 order, rule or regulation of the department or any court of this
220 state.



221 (e) Conviction of felony or crime involving moral
222 turpitude.

223 (f) Default in payment to the court should any bond
224 issued by such bail agent be forfeited by order of the court.

225 (g) Being elected or employed as a law enforcement or
226 judicial official.

227 (h) Engaging in the practice of law.

228 (i) Writing a bond in violation of Section
229 83-39-3(2)(b)(i) and (ii).

230 (j) Giving legal advice or a legal opinion in any form.

231 (k) Acting as or impersonating a bail agent without a
232 license.

233 (l) Use of any other trade name than what is submitted
234 on a license application to the department.

235 (m) Issuing a bail bond that contains information
236 intended to mislead a court about the proper delivery by personal
237 service or certified mail of a writ of scire facias, judgment nisi
238 or final judgment.

239 (2) In addition to the grounds specified in subsection (1)
240 of this section, the department shall be authorized to suspend the
241 license, registration or permit of any person for being out of
242 compliance with an order for support, as defined in Section
243 93-11-153. The procedure for suspension of a license,
244 registration or permit for being out of compliance with an order
245 for support, and the procedure for the reissuance or reinstatement



246 of a license, registration or permit suspended for that purpose,
247 and the payment of any fees for the reissuance or reinstatement of
248 a license, registration or permit suspended for that purpose,
249 shall be governed by Section 93-11-157 or 93-11-163, as the case
250 may be. If there is any conflict between any provision of Section
251 93-11-157 or 93-11-163 and any provision of this chapter, the
252 provisions of Section 93-11-157 or 93-11-163, as the case may be,
253 shall control.

254 (3) In addition to the sanctions provided in this section,
255 the department may assess an administrative fine in an amount not
256 to exceed One Thousand Dollars (\$1,000.00) per violation. Such
257 administrative fines shall be in addition to any criminal
258 penalties assessed under Section 99-5-1.

259 **SECTION 3.** Section 83-39-23, Mississippi Code of 1972, is
260 amended as follows:

261 83-39-23. No sheriff or other official shall accept bond
262 from a professional bail agent unless the bail agent is licensed
263 under this chapter and unless the bail agent shall exhibit to the
264 court a valid certificate or license issued by the department, and
265 the license of the bail agent shall not have been suspended or
266 revoked. The department shall provide notice to the sheriff and
267 municipal law enforcement and to the courts of every county and
268 municipality of any suspension or revocation of a professional,
269 soliciting or bail enforcement license. The department, upon
270 request, may furnish to any sheriff, district, circuit, county or



271 justice court judge or municipal judge additional information
272 which would appropriately identify the duly licensed professional
273 bail agent and insurers whose operation * * * is covered by this
274 chapter.

275 **SECTION 4.** Section 99-5-1, Mississippi Code of 1972, is
276 amended as follows:

277 99-5-1. Bail may be taken in the following form, viz * * *:

278 "State of Mississippi,

279 _____ County.

280 We _____, principal, and _____ and

281 _____, sureties, agree to pay the State of Mississippi

282 _____ Dollars, unless the said _____ shall

283 appear at the next term of the Circuit Court of _____

284 County, and there remain from day to day and term to term until

285 discharged by law, to answer a charge of _____.

286 Signed _____

287 _____

288 Approved _____ * * *

289 _____ " * * *

290 When the bail is for appearance before any committing court

291 or a judge, the form may be varied to suit the condition.

292 When a bond is taken from a professional bail agent, the

293 following must be preprinted or stamped clearly and legibly on the

294 bond form: full name of the professional bail agent, Department

295 of Insurance license number, full and correct legal address of the



296 professional bail agent and complete phone number of the
297 professional bail agent. In addition, if the bond is posted by a
298 limited surety professional bail agent, the name of the insurer,
299 the legal address of the insurer on file with the department and
300 phone number of the insurer must be preprinted or stamped, and a
301 true and correct copy of an individual's power of attorney
302 authorizing the agent to post such bond shall be attached.

303 If the bond is taken from a soliciting bail agent, the full
304 name of the soliciting bail agent and the license number of such
305 agent must be preprinted or stamped clearly and legibly along with
306 all information required for a professional bail agent and a true
307 and correct copy of an individual's power of attorney authorizing
308 such soliciting bail agent to sign the name of the professional
309 bail agent.

310 Any professional bail agent and/or soliciting bail agents who
311 issue a bail bond that does not contain this required information
312 may have their license suspended up to six (6) months and/or be
313 fined not more than One Thousand Dollars (\$1,000.00) for the first
314 offense, may have their license suspended up to one (1) year
315 and/or be fined not more than Five Thousand Dollars (\$5,000.00)
316 for the second offense and shall have their license permanently
317 revoked if they commit a third offense.

318 The court or the clerk of the court shall notify the
319 department when any professional bail agent or soliciting bail
320 agent or insurer issues a bail bond that contains information that



321 misleads a court about the proper delivery by personal service or
322 certified mail of a writ of scire facias, judgment nisi or final
323 judgment.

324 **SECTION 5.** Section 83-39-29, Mississippi Code of 1972, is
325 amended as follows:

326 83-39-29. (1) The department may provide information to the
327 district attorney in the district in which a professional bail
328 agent, a soliciting bail agent or bail enforcement agent is
329 domiciled so that proper legal action may be pursued against any
330 licensee who is alleged to have violated any provision of Chapter
331 39, Title 83. Such licensee is guilty of a misdemeanor and shall
332 be subject to a fine of not more than One Thousand Dollars
333 (\$1,000.00), imprisonment in the county jail for not more than one
334 (1) year, or both. Any insurer violating any provision of Chapter
335 39, Title 83 may be fined in an amount not to exceed Fifty
336 Thousand Dollars (\$50,000.00).

337 (2) Any person or entity who acts or attempts to solicit,
338 write or present a bail bond as a professional bail agent,
339 soliciting bail agent, or bail enforcement agent as defined in
340 this chapter and who is not licensed under this chapter is guilty
341 of a misdemeanor and, upon conviction, shall be subject to a fine
342 of not more than One Thousand Dollars (\$1,000.00), imprisonment in
343 the county jail for not more than one (1) year, or both.

344 (3) Any person who acts or attempts to act, represents
345 himself to be, or impersonates a professional bail agent, a



346 soliciting bail agent or a bail enforcement agent as defined in
347 this chapter by attempting to arrest or detaining any person, and
348 who is not licensed under this chapter, is guilty of a misdemeanor
349 and, upon conviction, shall be subject to a fine of not more than
350 Five Thousand Dollars (\$5,000.00), imprisonment for not more than
351 one (1) year, or both.

352 (4) A bail agent, bail enforcement agent or bail enforcement
353 agent from another state shall report to the sheriff's department
354 of the county in which he is attempting to locate a fugitive prior
355 to beginning to look for the fugitive to prove his licensing and
356 legal right to the fugitive. Failure to prove licensing shall be
357 an offense punishable by a fine not to exceed One Thousand Dollars
358 (\$1,000.00).

359 (5) Any person charged with a criminal violation who has
360 obtained his release from custody by having a professional bail
361 agent, insurer, agent of a bail agent or insurer, or any person
362 other than himself furnish his bail bond and who fails to appear
363 in court, at the time and place ordered by the court, is guilty of
364 "bond jumping" and, upon conviction, shall be subject to a fine of
365 not more than One Thousand Dollars (\$1,000.00), imprisonment in
366 the county jail for not more than one (1) year, or both, and
367 payment of restitution for reasonable expenses incurred returning
368 the defendant to court.

369 (6) Any person who knowingly and intentionally aids and
370 abets any person in the commission of the offense of bond jumping,



371 whether the person committing the principal offense is actually
372 convicted, shall be guilty of aiding and abetting bond jumping
373 and, upon conviction, shall be subject to a fine of not more than
374 One Thousand Dollars (\$1,000.00) or imprisonment in the county
375 jail for not more than one (1) year, or both, and payment of
376 restitution for reasonable expenses incurred in returning the
377 defendant to court. Any person who is convicted of aiding and
378 abetting shall be jointly and severally liable for payment of
379 restitution for reasonable expenses incurred in returning the
380 defendant to court.

381 (7) Any bail agent who is prejudiced or injured by the
382 commission of any of the offenses set forth in this section shall
383 have standing to file a complaint alleging the commission of the
384 offense or offenses.

385 **SECTION 6.** The following shall be codified as Section
386 83-39-30, Mississippi Code of 1972:

387 83-39-30. (1) Any person licensed under this chapter who
388 pays or gives anything of value, either directly or indirectly, to
389 any law enforcement or judicial official or any employee of any
390 facility where defendants who are or may be eligible for bail are
391 detained or may post bail for the purpose of enticing that
392 official or employee to refer business in any manner to them shall
393 be guilty of a felony subject to imprisonment for not more than
394 five (5) years or a fine of not more than Fifty Thousand Dollars
395 (\$50,000.00), or both. Nothing in this section shall prohibit a



396 bail agent from making political contributions to persons running
397 for public office.

398 (2) Any person licensed under this chapter who pays or gives
399 anything of value, either directly or indirectly, or who solicits
400 another person to pay or give anything of value to any convicted
401 inmate or trustee, regardless of whether they are held
402 pretrial or post-conviction in any facility where defendants who
403 are or may be eligible for bail are detained or may post bail for
404 the purpose of enticing that convicted inmate or trustee to refer
405 business in any manner to them shall be guilty of a felony subject
406 to imprisonment for not more than five (5) years or a fine of not
407 more than Fifty Thousand Dollars (\$50,000.00), or both.

408 (3) Any person who is convicted under this section shall
409 have their license permanently revoked and may not be involved in
410 any bail business in any way.

411 **SECTION 7.** This act shall take effect and be in force from
412 and after July 1, 2014.

