

*****Pending*****

AMENDMENT No. 1 PROPOSED TO

House Bill NO. 1235

By Senator(s) Committee

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

5 SECTION 1. Section 83-39-7, Mississippi Code of 1972, is
6 amended as follows:
7 83-39-7. (1) Each applicant for professional bail agent who
8 acts as personal surety shall be required to post a qualification
9 bond in the amount of Five Thousand Dollars (\$5,000.00) with the
10 department. Any professional bail agent making application for
11 license renewal, as herein provided, who shall have furnished bail
12 in fifty (50) or more criminal cases shall post such bond in the
13 amount of Ten Thousand Dollars (\$10,000.00). The qualification
14 bond shall be made by depositing with the commissioner the
15 aforesaid amount of bonds of the United States, State of
16 Mississippi, or any agency or subdivision thereof, or shall be
17 written by an insurer as defined in this chapter, shall meet the
18 specifications as may be required and defined in this chapter, and
19 shall meet such specifications as may be required and approved by
20 the department. The bond shall be conditioned upon the full and
21 prompt payment of any bail bond issued by such professional bail
22 agent into the court ordering the bond forfeited. The bond shall
23 be to the people of the State of Mississippi in favor of any court
24 of this state, whether municipal, justice, county, circuit,
25 Supreme or other court. If any bond issued by a professional bail

26 agent is declared forfeited and judgment entered thereon by a
27 court of proper jurisdiction and the amount of the bond is not
28 paid within ninety (90) days, that court shall order the
29 department to declare the qualification bond of the professional
30 bail agent to be forfeited and the license revoked. The
31 department shall then order the surety on the qualification bond
32 to deposit with the court an amount equal to the amount of the
33 bond issued by the professional bail agent and declared forfeited
34 by the court, or the amount of the qualification bond, whichever
35 is the smaller amount. The department shall, after hearing held
36 upon not less than ten (10) days' written notice, suspend the
37 license of the professional bail agent until such time as another
38 qualification bond in the required amount is posted with the
39 department. The revocation of the license of the professional
40 bail agent shall also serve to revoke the license of each
41 soliciting bail agent and bail enforcement agent employed or used
42 by such professional bail agent. In the event of a final judgment
43 of forfeiture of any bail bond written under the provisions of
44 this chapter, the amount of money so forfeited by the final
45 judgment of the proper court, less all accrued court costs and
46 excluding any interest charges or attorney's fees, shall be
47 refunded to the bail agent or his insurance company upon proper
48 showing to the court as to which is entitled to same, provided the
49 defendant in such cases is returned to the sheriff of the county
50 to which the original bail bond was returnable within twelve (12)
51 months of the date of such final judgment, or proof made of
52 incarceration of the defendant in another jurisdiction, and that a
53 "Hold Order" has been placed upon the defendant for return of the
54 defendant to the sheriff upon release from the other jurisdiction,
55 the return to the sheriff to be the responsibility of the
56 professional bail agent as provided in subsection (2) of this
57 section, then the bond forfeiture shall be stayed and remission
58 made upon petition to the court, in the amount found in the

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59 court's discretion to be just and proper. A bail agent licensed
60 under this chapter shall have a right to apply for and obtain from
61 the proper court an extension of time delaying a final judgment of
62 forfeiture if such bail agent can satisfactorily establish to the
63 court wherein such forfeiture is pending that the defendant named
64 in the bail bond is lawfully in custody outside of the State of
65 Mississippi.

66 (2) The professional bail agent shall satisfy the
67 responsibility to return the defendant who has been held by a
68 "Hold Order" in another jurisdiction upon release from the other
69 jurisdiction:

70 (a) By personally returning the defendant to the
71 sheriff at no cost to the county; or

72 (b) Where the other jurisdiction will not release the
73 defendant to any person other than a law enforcement officer, by
74 reimbursing to the county the reasonable cost of the return of the
75 defendant, not to exceed the cost that would be entailed if the
76 option in paragraph (a) of this subsection were available.

77 SECTION 2. Section 99-5-27, Mississippi Code of 1972, is
78 amended as follows:

79 99-5-27. (1) (a) "Surrender" means the delivery of the
80 defendant, principal on bond, physically to the sheriff or chief
81 of police or in his absence, his jailer, and it is the duty of the
82 sheriff or chief of police, or his jailer, to accept the surrender
83 of the principal when presented and such act is complete upon the
84 execution of verbal or written surrender notice presented by bail
85 and shall relieve bail of liability on principal's bond.

86 (b) Bail may surrender principal if principal is found
87 to be detained on another charge * * *. If principal is found
88 incarcerated in another jurisdiction, bail may surrender him by
89 verbal or written notice of surrender to the sheriff or chief of
90 police, or his jailer, of that jurisdiction and the notice of
91 surrender shall act as a "Hold Order" and upon presentation of

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92 written surrender notice to the court of proper jurisdiction, the
93 court shall order a "Hold Order" placed on the principal for the
94 court and shall relieve bail of liability on principal's bond,
95 with the provision that, upon release from incarceration in the
96 other jurisdiction, return of the principal to the sheriff shall
97 be the responsibility of bail. Bail shall satisfy the
98 responsibility to return a principal held by a "Hold Order" in
99 another jurisdiction upon release from the other jurisdiction
100 either by personally returning principal to the sheriff at no cost
101 to the county or, where the other jurisdiction will not release
102 principal to any person other than a law enforcement officer, by
103 reimbursing to the county the reasonable cost of the return of
104 principal, not to exceed the cost that would be entailed if the
105 first option were available.

106 (c) The surrender of principal by bail, within the time
107 period provided in Section 99-5-25, shall serve to discharge its
108 liability to the State of Mississippi and any of its courts; but
109 if this be done after forfeiture of the bond or recognizance, the
110 court shall set aside the judgment nisi or final judgment upon
111 filing of surrender notice by bail.

112 (2) (a) Bail, or its agent, at any time, may surrender its
113 principal to any law enforcement agency or in open court in
114 discharge of its liability on the principal's bond if the law
115 enforcement agency that was involved in setting the original bond
116 approves of such surrender, to the State of Mississippi and any of
117 its courts and at any time may arrest and transport its principal
118 anywhere or may authorize another to do so, may be assisted by any
119 law enforcement agency or its agents anywhere upon request of bail
120 and may receive any information available to law enforcement or
121 the courts pertaining to the principal for the purpose of safe
122 surrender or for any reasonable cause in order to safely return
123 the principal to the custody of law enforcement and the court.

124 (b) Bail, or its agent, at any time, may arrest its

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125 principal anywhere or authorize another to do so for the purpose
126 of surrender of the principal on bail bond. Failure of the
127 sheriff or chief of police or his jailer, any law enforcement
128 agency or its agents or the court to accept surrender by bail or
129 its agent shall relieve bail of any liability on principal's bond,
130 and the bond shall be held for naught.

131 (3) Bail, or its agent, at any time, upon request by the
132 defendant or others on behalf of the defendant, may privately
133 interview the defendant to obtain information to help with
134 surrender before posting any bail bond on behalf of the defendant.

135 All licensed bail agents shall have equal access to jails or
136 detention facilities for the purpose of such interviews, the
137 posting of bail bonds and the surrender of principal.

138 (4) Upon surrender, the court, after full review of the
139 defendant and the pending charges, in open court, may discharge
140 the prisoner on his giving new bail, but if he does not give new
141 bail, he shall be detained in jail.

142 SECTION 3. This act shall take effect and be in force from
143 and after July 1, 1999.

**Further, amend by striking the title in its entirety and
inserting in lieu thereof the following:**

1 AN ACT TO AMEND SECTIONS 83-39-7 AND 99-5-27, MISSISSIPPI
2 CODE OF 1972, TO REVISE THE MANNER OF RETURN OF DEFENDANT OUT ON
3 BOND; AND FOR RELATED PURPOSES.