

By: Senator(s) Horhn

To: Judiciary

SENATE BILL NO. 2910

1 AN ACT TO AMEND SECTION 83-39-3, MISSISSIPPI CODE OF 1972, TO
 2 PROVIDE THAT CERTAIN RELATIVES OF LAW ENFORCEMENT OFFICIALS SHALL
 3 NOT BE LICENSED AS BAIL AGENTS; TO AMEND SECTION 83-39-1,
 4 MISSISSIPPI CODE OF 1972, TO DEFINE THE TERM "RELATIVE"; TO AMEND
 5 SECTION 83-39-5, MISSISSIPPI CODE OF 1972, TO REVISE THE
 6 APPLICATION FOR A LICENSE AS A BAIL AGENT; TO AMEND SECTION
 7 83-39-15, MISSISSIPPI CODE OF 1972, TO REVISE GROUNDS FOR DENIAL,
 8 SUSPENSION OR REVOCATION OF THE LICENSE OF A BAIL AGENT; AND FOR
 9 RELATED PURPOSES.

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

11 SECTION 1. Section 83-39-1, Mississippi Code of 1972, is
 12 amended as follows:

13 83-39-1. The following terms when used in this chapter shall
 14 have the following meanings:

15 (a) "Department" means the Department of Insurance.

16 (b) "Commissioner" means the Commissioner of Insurance.

17 (c) "Insurer" means any domestic or foreign insurance
 18 corporation or association engaged in the business of insurance or
 19 suretyship which has qualified to transact surety or casualty
 20 business in this state.

21 (d) "Professional bail agent" means any individual who
 22 shall furnish bail, acting as a licensed personal surety agent or
 23 as a licensed limited surety agent representing an insurer as
 24 defined by this chapter. The above definition shall not include,
 25 and this chapter does not apply to, any individual who acts as
 26 personal surety in instances where there is no compensation
 27 charged or received for such service.

28 (e) "Soliciting bail agent" means any person who is
 29 appointed by a professional bail agent to execute or countersign

30 bail bonds in connection with judicial proceedings and who is duly
31 licensed by the commissioner to represent such professional bail
32 agent, as an agent or employee of a professional bail agent, or as
33 an independent contractor, for compensation or otherwise, shall
34 solicit, advertise or actively seek bail bond business for or in
35 behalf of a professional bail agent.

36 (f) "Bail enforcement agent" means a person who assists
37 the professional bail agent in presenting the defendant in court
38 when required, or who assists in the apprehension and surrender of
39 the defendant to the court or who keeps the defendant under
40 necessary surveillance. Nothing herein shall affect the right of
41 professional bail agents to have counsel or to ask assistance of
42 law enforcement officers.

43 (g) "Limited surety agent" means any individual who is
44 appointed by an insurer by power of attorney to execute or
45 countersign bail bonds in connection with judicial proceedings,
46 and who is duly licensed by the commissioner to represent such
47 insurer for the restricted lines of bail, fidelity and surety,
48 after successfully completing a limited examination by the
49 department for the restricted lines of business.

50 (h) "Personal surety agent" means any individual who,
51 having posted the necessary qualification bond with the
52 commissioner as required by Section 83-39-7, and duly licensed by
53 the commissioner, may execute and sign bail bonds in connection
54 with judicial proceedings. All new personal surety agents
55 licensed after July 1, 1994, shall complete successfully a limited
56 examination by the department for the restricted lines of
57 business.

58 (i) "Relative" means the spouse, child or parent.

59 SECTION 2. Section 83-39-3, Mississippi Code of 1972, is
60 amended as follows:

61 83-39-3. (1) No person shall act in the capacity of
62 professional bail agent, soliciting bail agent or bail enforcement

63 agent, as defined in Section 83-39-1, or perform any of the
64 functions, duties or powers of the same unless that person shall
65 be qualified and licensed as provided in this chapter. The terms
66 of this chapter shall not apply to any automobile club or
67 association, financial institution, insurance company or other
68 organization or association or their employees who execute bail
69 bonds on violations arising out of the use of a motor vehicle by
70 their members, policyholders or borrowers when bail bond is not
71 the principal benefit of membership, the policy of insurance or of
72 a loan to such member, policyholder or borrower.

73 (2) No license shall be issued except in compliance with
74 this chapter, and none shall be issued except to an individual.
75 No firm, partnership, association or corporation, as such, shall
76 be so licensed. No professional bail agent shall operate under
77 more than one (1) trade name. A soliciting bail agent and bail
78 enforcement agent shall operate only under the professional bail
79 agent's name. No person who has ever been convicted of a felony
80 or any crime involving moral turpitude, or who has not been a
81 resident of this state for at least one (1) year, unless presently
82 licensed for bail bonds, or who is under twenty-one (21) years of
83 age, shall be issued a license hereunder. No person engaged as a
84 law enforcement or judicial official or attorney shall be licensed
85 hereunder. No person who is a spouse of a law enforcement
86 official or who is a spouse of an employee of a law enforcement
87 official or a law enforcement entity shall write a bond in the
88 county in which the spouse is elected, appointed or employed;
89 violation of this prohibition shall result in license revocation.
90 No person licensed under this chapter shall act as a personal
91 surety agent in the writing of bail during a period he or she is
92 licensed as a limited surety agent, as defined herein.

93 (3) The department is vested with the authority to enforce
94 this chapter. The department may conduct investigations or
95 request other state, county or local officials to conduct

96 investigations and promulgate such rules and regulations as may be
97 necessary for the enforcement of this chapter. The department may
98 establish monetary fines and collect such fines as necessary for
99 the enforcement of such rules and regulations. All fines
100 collected shall be deposited in the Special Insurance Department
101 Fund for the operation of that agency.

102 (4) Each license issued hereunder shall expire annually on
103 the last day of May, unless revoked or suspended prior thereto by
104 the department, or upon notice served upon the commissioner by the
105 insurer that the authority of a limited surety agent to act for or
106 in behalf of such insurer had been terminated, or upon notice
107 served upon the commissioner by a professional bail agent that the
108 employment of a soliciting bail agent or bail enforcement agent
109 had been terminated by such professional bail agent.

110 (5) The department shall prepare and deliver to each
111 licensee a certificate showing the name, address and
112 classification of such licensee, and shall certify that the person
113 is a licensed professional bail agent, being either a personal
114 surety agent or a limited surety agent, a soliciting bail agent or
115 a bail enforcement agent. In addition, the certificate, if for a
116 soliciting bail agent or bail enforcement agent, shall show the
117 name of the professional bail agent and any other information as
118 the commissioner deems proper.

119 (6) The commissioner, after a hearing under Section
120 83-39-17, may refuse to issue a privilege license for a soliciting
121 bail agent to change from one (1) professional bail agent to
122 another if he owes any premium or debt to the professional bail
123 agent with whom he is currently licensed.

124 (7) From and after May 1, 2000, prior to the issuance of any
125 professional bail agent, soliciting bail agent or bail enforcement
126 agent license, the applicant shall submit proof of completion of
127 eight (8) hours of prelicensing education approved by the
128 department and the Professional Bail Agents Association of

129 Mississippi, Inc., and conducted by the Mississippi Judicial
130 College or any institution of higher learning or community
131 college. An applicant may work as an agent without the
132 prelicensing education requirement but must complete such
133 education at the first available offering.

134 (8) From and after May 1, 2000, prior to the renewal of any
135 professional bail agent, soliciting bail agent or bail enforcement
136 agent license, the applicant shall submit proof of completion of
137 eight (8) hours of continuing education approved by the department
138 and the Professional Bail Agents Association of Mississippi, Inc.,
139 and provided by the Mississippi Judicial College or any
140 institution of higher learning or community college.

141 SECTION 3. Section 83-39-5, Mississippi Code of 1972, is
142 amended as follows:

143 83-39-5. Any person desiring to engage in the business of
144 professional bail agent, soliciting bail agent or bail enforcement
145 agent in this state shall apply to the department for a license on
146 forms prepared and furnished by the department. The application
147 for a license, or renewal thereof, shall set forth, under oath,
148 the following information:

149 (a) Full name, age, date of birth, Social Security
150 number, residence during the previous five (5) years, occupation
151 and business address of the applicant.

152 (b) Spouse's full name, occupation and business
153 address.

154 (c) Other relatives' full names, occupations and
155 business addresses if a law enforcement official or if an employee
156 of a law enforcement official or a law enforcement entity.

157 (d) A photograph of the applicant and a full set of
158 fingerprints.

159 (e) A statement that he is not licensed to practice law
160 in the State of Mississippi or any other state and that no

161 attorney or any convicted felon has any interest in his
162 application, either directly or indirectly.

163 (f) Any other information as may be required by this
164 chapter or by the department.

165 (g) In the case of a professional bail agent, a
166 statement that he will actively engage in the bail bond business.

167 (h) In the case of a soliciting bail agent, a statement
168 that he will be employed or used by only one (1) professional bail
169 agent and that the professional bail agent will supervise his work
170 and be responsible for his conduct in his work. A professional
171 bail agent shall sign the application of each soliciting bail
172 agent employed or used by him.

173 Each application or filing made under this section shall
174 include the social security number(s) of the applicant in
175 accordance with Section 93-11-64, Mississippi Code of 1972.

176 SECTION 4. Section 83-39-15, Mississippi Code of 1972, is
177 amended as follows:

178 83-39-15. (1) The department may deny, suspend, revoke or
179 refuse to renew, as may be appropriate, the license of any person
180 engaged in the business of professional bail agent, soliciting
181 bail agent, or bail enforcement agent for any of the following
182 reasons:

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

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

190 (c) Material misstatement, misrepresentation or fraud
191 in obtaining the license.

192 (d) Willful failure to comply with, or willful
193 violation of, any provision of this chapter or of any proper

194 order, rule or regulation of the department or any court of this
195 state.

196 (e) Conviction of felony or crime involving moral
197 turpitude.

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

200 (g) Being engaged as a law enforcement or judicial
201 official or attorney or writing a bond in a county where a spouse
202 is a law enforcement official or employee of a law enforcement
203 official or a law enforcement entity.

204 (2) In addition to the grounds specified in subsection (1)
205 of this section, the department shall be authorized to suspend the
206 license, registration or permit of any person for being out of
207 compliance with an order for support, as defined in Section
208 93-11-153. The procedure for suspension of a license,
209 registration or permit for being out of compliance with an order
210 for support, and the procedure for the reissuance or reinstatement
211 of a license, registration or permit suspended for that purpose,
212 and the payment of any fees for the reissuance or reinstatement of
213 a license, registration or permit suspended for that purpose,
214 shall be governed by Section 93-11-157 or 93-11-163, as the case
215 may be. If there is any conflict between any provision of Section
216 93-11-157 or 93-11-163 and any provision of this chapter, the
217 provisions of Section 93-11-157 or 93-11-163, as the case may be,
218 shall control.

219 SECTION 5. This act shall take effect and be in force from
220 and after July 1, 2001.