

By: Senator(s) Horhn

To: Judiciary

SENATE BILL NO. 2910
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 83-39-3, MISSISSIPPI CODE OF 1972, AS
2 AMENDED BY SENATE BILL NO. 2748, 2001 REGULAR SESSION, TO PROVIDE
3 THAT CERTAIN RELATIVES OF LAW ENFORCEMENT OFFICIALS SHALL NOT BE
4 LICENSED AS BAIL AGENTS; TO AMEND SECTION 83-39-15, MISSISSIPPI
5 CODE OF 1972, TO REVISE GROUNDS FOR DENIAL, SUSPENSION OR
6 REVOCATION OF THE LICENSE OF A BAIL AGENT; AND FOR RELATED
7 PURPOSES.

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

9 SECTION 1. Section 83-39-3, Mississippi Code of 1972, as
10 amended by Senate Bill No. 2748, 2001 Regular Session, is amended
11 as follows:

12 83-39-3. (1) No person shall act in the capacity of
13 professional bail agent, soliciting bail agent or bail enforcement
14 agent, as defined in Section 83-39-1, or perform any of the
15 functions, duties or powers of the same unless that person shall
16 be qualified and licensed as provided in this chapter. The terms
17 of this chapter shall not apply to any automobile club or
18 association, financial institution, insurance company or other
19 organization or association or their employees who execute bail
20 bonds on violations arising out of the use of a motor vehicle by
21 their members, policyholders or borrowers when bail bond is not
22 the principal benefit of membership, the policy of insurance or of
23 a loan to such member, policyholder or borrower.

24 (2) (a) No license shall be issued except in compliance
25 with this chapter, and none shall be issued except to an
26 individual. No firm, partnership, association or corporation, as
27 such, shall be so licensed. No professional bail agent shall
28 operate under more than one (1) trade name. A soliciting bail

29 agent and bail enforcement agent shall operate only under the
30 professional bail agent's name. No person who has ever been
31 convicted of a felony or any crime involving moral turpitude, or
32 who has not been a resident of this state for at least one (1)
33 year, unless presently licensed for bail bonds, or who is under
34 twenty-one (21) years of age, shall be issued a license hereunder.
35 No person engaged as a law enforcement or judicial official or
36 attorney shall be licensed hereunder.

37 (b) (i) No person who is a spouse of: (A) a county or
38 municipal law enforcement official; (B) an employee of a county or
39 municipal law enforcement official; or (C) an employee of a law
40 enforcement entity shall write a bond for a person arrested by the
41 spouse or the law enforcement entity which the person's spouse
42 serves as a law enforcement official or employee; violation of
43 this prohibition shall result in license revocation.

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

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

50 (3) The department is vested with the authority to enforce
51 this chapter. The department may conduct investigations or
52 request other state, county or local officials to conduct
53 investigations and promulgate such rules and regulations as may be
54 necessary for the enforcement of this chapter. The department may
55 establish monetary fines and collect such fines as necessary for
56 the enforcement of such rules and regulations. All fines
57 collected shall be deposited in the Special Insurance Department
58 Fund for the operation of that agency.

59 (4) Each license issued hereunder shall expire annually on
60 the last day of May, unless revoked or suspended prior thereto by
61 the department, or upon notice served upon the commissioner by the

62 insurer that the authority of a limited surety agent to act for or
63 in behalf of such insurer had been terminated, or upon notice
64 served upon the commissioner by a professional bail agent that the
65 employment of a soliciting bail agent or bail enforcement agent
66 had been terminated by such professional bail agent.

67 (5) The department shall prepare and deliver to each
68 licensee a certificate showing the name, address and
69 classification of such licensee, and shall certify that the person
70 is a licensed professional bail agent, being either a personal
71 surety agent or a limited surety agent, a soliciting bail agent or
72 a bail enforcement agent. In addition, the certificate, if for a
73 soliciting bail agent or bail enforcement agent, shall show the
74 name of the professional bail agent and any other information as
75 the commissioner deems proper.

76 (6) The commissioner, after a hearing under Section
77 83-39-17, may refuse to issue a privilege license for a soliciting
78 bail agent to change from one professional bail agent to another
79 if he owes any premium or debt to the professional bail agent with
80 whom he is currently licensed.

81 (7) From and after May 1, 2000, prior to the issuance of any
82 professional bail agent, soliciting bail agent or bail enforcement
83 agent license, the applicant shall submit proof of completion of
84 eight (8) hours of prelicensing education approved by the
85 department and the Professional Bail Agents Association of
86 Mississippi, Inc., and conducted by the Mississippi Judicial
87 College or any institution of higher learning or community college
88 located within the State of Mississippi.

89 (8) From and after May 1, 2000, prior to the renewal of any
90 professional bail agent, soliciting bail agent or bail enforcement
91 agent license, the applicant shall submit proof of completion of
92 eight (8) hours of continuing education approved by the department
93 and the Professional Bail Agents Association of Mississippi, Inc.,
94 and provided by the Mississippi Judicial College or any

95 institution of higher learning or community college located within
96 the State of Mississippi.

97 SECTION 2. Section 83-39-15, Mississippi Code of 1972, is
98 amended as follows:

99 83-39-15. (1) The department may deny, suspend, revoke or
100 refuse to renew, as may be appropriate, the license of any person
101 engaged in the business of professional bail agent, soliciting
102 bail agent, or bail enforcement agent for any of the following
103 reasons:

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

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

111 (c) Material misstatement, misrepresentation or fraud
112 in obtaining the license.

113 (d) Willful failure to comply with, or willful
114 violation of, any provision of this chapter or of any proper
115 order, rule or regulation of the department or any court of this
116 state.

117 (e) Conviction of felony or crime involving moral
118 turpitude.

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

121 (g) Being elected or employed as a law enforcement or
122 judicial official.

123 (h) Engaging in the practice of law.

124 (i) Writing a bond for a person arrested by a spouse or
125 the law enforcement entity which a spouse serves as a law
126 enforcement official or employee.

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

128 (2) In addition to the grounds specified in subsection (1)
129 of this section, the department shall be authorized to suspend the
130 license, registration or permit of any person for being out of
131 compliance with an order for support, as defined in Section
132 93-11-153. The procedure for suspension of a license,
133 registration or permit for being out of compliance with an order
134 for support, and the procedure for the reissuance or reinstatement
135 of a license, registration or permit suspended for that purpose,
136 and the payment of any fees for the reissuance or reinstatement of
137 a license, registration or permit suspended for that purpose,
138 shall be governed by Section 93-11-157 or 93-11-163, as the case
139 may be. If there is any conflict between any provision of Section
140 93-11-157 or 93-11-163 and any provision of this chapter, the
141 provisions of Section 93-11-157 or 93-11-163, as the case may be,
142 shall control.

143 SECTION 3. This act shall take effect and be in force from
144 and after July 1, 2001.