SENATE BILL NO. 2361

AN ACT TO AMEND SECTION 83-39-1, MISSISSIPPI CODE OF 1972, TO DEFINE THE TERMS "GOVERNMENTAL ENTITY" AND "RELATIVE" AS THEY RELATE TO THE REGULATION OF BAIL AGENTS; TO AMEND SECTION 83-39-3, MISSISSIPPI CODE OF 1972, TO PROHIBIT A PERSON WHO IS A MEMBER, AN OFFICER OR AN EMPLOYEE OF A GOVERNMENTAL ENTITY FROM WRITING A BOND FOR A PERSON ARRESTED BY A LAW ENFORCEMENT ENTITY OF THAT GOVERNMENTAL ENTITY; AND FOR RELATED PURPOSES.

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

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

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

(a) "Department" means the Department of Insurance.
(b) "Commissioner" means the Commissioner of Insurance.
(c) "Insurer" means any domestic or foreign insurance corporation or association engaged in the business of insurance or suretyship which has qualified to transact surety or casualty business in this state.
(d) "Professional bail agent" means any individual who shall furnish bail, acting as a licensed personal surety agent or as a licensed limited surety agent representing an insurer as defined by this chapter. The above definition shall not include, and this chapter does not apply to, any individual who acts as personal surety in instances where there is no compensation charged or received for such service.
(e) "Soliciting bail agent" means any person who is appointed by a professional bail agent to execute or countersign bail bonds in connection with judicial proceedings and who is duly licensed by the commissioner to represent such professional bail

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By: Senator(s) Kirby

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agent, as an agent or employee of a professional bail agent, or as
an independent contractor, for compensation or otherwise, shall
solicit, advertise or actively seek bail bond business for or in
behalf of a professional bail agent.

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

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

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

(i) "Governmental entity" means the state, a county, a
municipality or any other separate political subdivision
authorized by law to exercise a part of the sovereign power of the
state.

(j) "Relative" means spouse, child, parent, brother or
sister.
SECTION 2. Section 83-39-3, Mississippi Code of 1972, is amended as follows:

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

(2) (a) No license shall be issued except in compliance with this chapter, and none shall be issued except to an individual. No firm, partnership, association or corporation, as such, shall be so licensed. No professional bail agent shall operate under more than one (1) trade name. A soliciting bail agent and bail enforcement agent shall operate only under the professional bail agent's name. No person who has ever been convicted of a felony or any crime involving moral turpitude, or who has not been a resident of this state for at least one (1) year, unless presently licensed for bail bonds, or who is under twenty-one (21) years of age, shall be issued a license hereunder. No person engaged as a law enforcement or judicial official or attorney shall be licensed hereunder.

(b) (i) No person who is a relative of: 1. a county or municipal law enforcement official, any court official, a district attorney or other prosecuting attorney; 2. an employee of a county or municipal law enforcement official, any court official, a district attorney or other prosecuting attorney; or 3. an employee of a law enforcement entity, any court, a district
attorney or other prosecuting attorney shall write a bond for a person arrested by the county or municipal law enforcement official or employee or arrested by or held in the custody of the law enforcement entity which the person's relative serves as a law enforcement official or employee or shall write a bond for the person under the jurisdiction of the court, the district attorney's office or other prosecuting attorney's office which the person's relative serves as a court official, district attorney, other prosecuting attorney or employee thereof; violation of this prohibition shall result in license revocation.

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

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

(iv) No person who is a member, an officer or an employee of a governmental entity shall write a bond for a person arrested by or held in the custody of a law enforcement entity of the governmental entity which he serves as a member, an officer or an employee.

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

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

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

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

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

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

SECTION 3. This act shall take effect and be in force from and after July 1, 2003.