

By: Senator(s) Kirby

To: Judiciary

SENATE BILL NO. 2361

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

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

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

11 83-39-1. The following terms when used in this chapter shall
12 have the following meanings:

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

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

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

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

26 (e) "Soliciting bail agent" means any person who is
27 appointed by a professional bail agent to execute or countersign
28 bail bonds in connection with judicial proceedings and who is duly
29 licensed by the commissioner to represent such professional bail



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

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

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

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

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

60 (j) "Relative" means spouse, child, parent, brother or
61 sister.



62 **SECTION 2.** Section 83-39-3, Mississippi Code of 1972, is
63 amended as follows:

64 83-39-3. (1) No person shall act in the capacity of
65 professional bail agent, soliciting bail agent or bail enforcement
66 agent, as defined in Section 83-39-1, or perform any of the
67 functions, duties or powers of the same unless that person shall
68 be qualified and licensed as provided in this chapter. The terms
69 of this chapter shall not apply to any automobile club or
70 association, financial institution, insurance company or other
71 organization or association or their employees who execute bail
72 bonds on violations arising out of the use of a motor vehicle by
73 their members, policyholders or borrowers when bail bond is not
74 the principal benefit of membership, the policy of insurance or of
75 a loan to such member, policyholder or borrower.

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

89 (b) (i) No person who is a relative of: 1. a county
90 or municipal law enforcement official, any court official, a
91 district attorney or other prosecuting attorney; 2. an employee of
92 a county or municipal law enforcement official, any court
93 official, a district attorney or other prosecuting attorney; or 3.
94 an employee of a law enforcement entity, any court, a district



95 attorney or other prosecuting attorney shall write a bond for a
96 person arrested by the county or municipal law enforcement
97 official or employee or arrested by or held in the custody of the
98 law enforcement entity which the person's relative serves as a law
99 enforcement official or employee or shall write a bond for the
100 person under the jurisdiction of the court, the district
101 attorney's office or other prosecuting attorney's office which the
102 person's relative serves as a court official, district attorney,
103 other prosecuting attorney or employee thereof; violation of this
104 prohibition shall result in license revocation.

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

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

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

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

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



128 insurer that the authority of a limited surety agent to act for or
129 in behalf of such insurer had been terminated, or upon notice
130 served upon the commissioner by a professional bail agent that the
131 employment of a soliciting bail agent or bail enforcement agent
132 had been terminated by such professional bail agent.

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

142 (6) The commissioner, after a hearing under Section
143 83-39-17, may refuse to issue a privilege license for a soliciting
144 bail agent to change from one professional bail agent to another
145 if he owes any premium or debt to the professional bail agent with
146 whom he is currently licensed.

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

155 (8) From and after May 1, 2000, prior to the renewal of any
156 professional bail agent, soliciting bail agent or bail enforcement
157 agent license, the applicant shall submit proof of completion of
158 eight (8) hours of continuing education approved by the department
159 and the Professional Bail Agents Association of Mississippi, Inc.,
160 and provided by the Mississippi Judicial College or any



161 institution of higher learning or community college located within
162 the State of Mississippi.

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

