SENATE BILL NO. 2760

AN ACT TO AMEND SECTION 83-39-3, MISSISSIPPI CODE OF 1972, TO REQUIRE THAT THE DEPARTMENT OF INSURANCE SHALL FORWARD THE FINGERPRINTS OF AN APPLICANT FOR A LICENSE AS A BAIL AGENT TO THE DEPARTMENT OF PUBLIC SAFETY AND THE FEDERAL BUREAU OF INVESTIGATION FOR A CRIMINAL HISTORY CHECK OF THE APPLICANT; AND FOR RELATED PURPOSES.

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

SECTION 1. 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 spouse of: (A) a county or municipal law enforcement official; (B) an employee of a county or municipal law enforcement official; or (C) an employee of a law enforcement entity shall write a bond for a person arrested by the spouse or the law enforcement entity which the person's spouse serves as a law enforcement official or employee; 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.

(3) (a) 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.

(b) In order to assist the department in determining an applicant's suitability for a license under this chapter, the department shall forward the fingerprints of the applicant that are submitted with the application to the Department of Public Safety for use by that agency in conducting a criminal history check. If no disqualifying record is identified at the state
level, the fingerprints shall be forwarded by the Department of Public Safety to the Federal Bureau of Investigation for a national criminal history record check. Fees related to the criminal history record check shall be paid by the applicant to the Commissioner of Insurance and deposited in the special fund in the State Treasury designated as the "Insurance Department Fund."

(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
ST: Bail agents; require that fingerprints of applicant be sent to Department of Public Safety and FBI for criminal check.

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