

By: Representative Stevens

To: Judiciary B

HOUSE BILL NO. 437

1 AN ACT TO AMEND SECTION 83-39-7, MISSISSIPPI CODE OF 1972, TO  
 2 REVISE PROCEDURES CONCERNING THE REVOCATION OR SUSPENSION OF THE  
 3 LICENSE OF A PROFESSIONAL BAIL AGENT; TO AMEND SECTION 83-39-15,  
 4 MISSISSIPPI CODE OF 1972, TO REVISE THE GROUNDS FOR THE DENIAL,  
 5 SUSPENSION, REVOCATION OR REFUSAL TO RENEW THE LICENSE OF A  
 6 PROFESSIONAL BAIL AGENT, SOLICITING BAIL AGENT OR BAIL ENFORCEMENT  
 7 AGENT; TO AMEND SECTION 83-39-3, MISSISSIPPI CODE OF 1972, TO  
 8 AUTHORIZE THE DEPARTMENT OF INSURANCE TO FORWARD A BAIL AGENT  
 9 APPLICANT'S FINGERPRINTS TO THE DEPARTMENT OF PUBLIC SAFETY AND  
 10 THE FEDERAL BUREAU OF INVESTIGATION FOR A CRIMINAL HISTORY CHECK;  
 11 TO AMEND SECTION 83-39-5, MISSISSIPPI CODE OF 1972, TO REQUIRE  
 12 CERTAIN INFORMATION TO BE PLACED ON THE APPLICATION FOR A BAIL  
 13 AGENT'S LICENSE; AND FOR RELATED PURPOSES.

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

15 **SECTION 1.** Section 83-39-7, Mississippi Code of 1972, is  
 16 amended as follows:

17 83-39-7. (1) Each applicant for a professional bail agent  
 18 license who acts as personal surety shall be required to post a  
 19 qualification bond in the amount of Ten Thousand Dollars  
 20 (\$10,000.00) with the department. The qualification bond shall be  
 21 made by depositing with the commissioner the aforesaid amount of  
 22 bonds of the United States, State of Mississippi, or any agency or  
 23 subdivision thereof, or shall be written by an insurer as defined  
 24 in this chapter, shall meet the specifications as may be required  
 25 and defined in this chapter, and shall meet such specifications as  
 26 may be required and approved by the department. The bond shall be  
 27 conditioned upon the full and prompt payment of any bail bond  
 28 issued by such professional bail agent into the court ordering the  
 29 bond forfeited. The bond shall be to the people of the State of  
 30 Mississippi in favor of any court of this state, whether  
 31 municipal, justice, county, circuit, Supreme or other court.



32       (2) If any bail bond written by a professional bail agent is  
33 declared forfeited and judgment entered thereon by a court of  
34 proper jurisdiction as authorized in Section 99-5-25, and the  
35 amount of the bond is not paid within ninety (90) days, that court  
36 shall order the department to revoke the license of the  
37 professional bail agent and, if the professional bail agent acts  
38 as a personal surety, to declare the qualification bond \* \* \* to  
39 be forfeited \* \* \*. If the bail bond is not forfeited correctly  
40 under Section 99-5-25, the professional bail agent shall seek  
41 timely judicial review of such forfeiture with the court of proper  
42 jurisdiction.

43       (3) Upon notice from the court of proper jurisdiction of an  
44 order of revocation, the department shall, after hearing held upon  
45 not less than twenty (20) days' written notice, revoke the license  
46 of the professional bail agent and, if the professional bail agent  
47 acts as a personal surety, declare the qualification bond to be  
48 forfeited. Any action by the department shall be stayed upon the  
49 professional bail agent's obtaining judicial review in accordance  
50 with subsection (2) of this section.

51       (4) The revocation or suspension of the license of the  
52 professional bail agent shall also serve to revoke or suspend the  
53 license of each soliciting bail agent and bail enforcement agent  
54 employed or used by such professional bail agent.

55       (5) In the event of a final judgment of forfeiture of any  
56 bail bond written under the provisions of this chapter, the amount  
57 of money so forfeited by the final judgment of the proper court,  
58 less all accrued court costs and excluding any interest charges or  
59 attorney's fees, shall be refunded to the bail agent or his  
60 insurance company upon proper showing to the court as to which is  
61 entitled to same, provided the defendant in such cases is returned  
62 to the sheriff of the county to which the original bail bond was  
63 returnable within twelve (12) months of the date of such final  
64 judgment, or proof made of incarceration of the defendant in



65 another jurisdiction, and that a "Hold Order" has been placed upon  
66 the defendant for return of the defendant to the sheriff upon  
67 release from the other jurisdiction, the return to the sheriff to  
68 be the responsibility of the professional bail agent as provided  
69 in subsection (6) of this section, then the bond forfeiture shall  
70 be stayed and remission made upon petition to the court, in the  
71 amount found in the court's discretion to be just and proper. A  
72 bail agent licensed under this chapter shall have a right to apply  
73 for and obtain from the proper court an extension of time delaying  
74 a final judgment of forfeiture if such bail agent can  
75 satisfactorily establish to the court wherein such forfeiture is  
76 pending that the defendant named in the bail bond is lawfully in  
77 custody outside of the State of Mississippi.

78 (6) The professional bail agent shall satisfy the  
79 responsibility to return the defendant who has been held by a  
80 "Hold Order" in another jurisdiction upon release from the other  
81 jurisdiction:

82 (a) By personally returning the defendant to the  
83 sheriff at no cost to the county; or

84 (b) Where the other jurisdiction will not release the  
85 defendant to any person other than a law enforcement officer, by  
86 reimbursing to the county the reasonable cost of the return of the  
87 defendant, not to exceed the cost that would be entailed if the  
88 option in paragraph (a) of this subsection were available.

89 **SECTION 2.** Section 83-39-15, Mississippi Code of 1972, is  
90 amended as follows:

91 83-39-15. (1) The department may deny, suspend, revoke or  
92 refuse to renew, as may be appropriate, the license of any person  
93 engaged in the business of professional bail agent, soliciting  
94 bail agent, or bail enforcement agent for any of the following  
95 reasons:



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

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

103 (c) Material misstatement, misrepresentation or fraud  
104 in obtaining the license.

105 (d) Willful failure to comply with, or willful  
106 violation of, any provision of this chapter or of any proper  
107 order, rule or regulation of the department or any court of this  
108 state.

109 (e) Conviction of felony or crime involving moral  
110 turpitude.

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

113 (g) Being elected or employed as a law enforcement or  
114 judicial official.

115 (h) Engaging in the practice of law.

116 (i) Writing a bond for a person arrested by a spouse or  
117 the law enforcement entity which a spouse serves as a law  
118 enforcement official or employee.

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

120 (k) Using fraudulent, coercive or dishonest practices  
121 or demonstrating incompetence, untrustworthiness or financial  
122 irresponsibility of business in this state or elsewhere.

123 (2) In addition to the grounds specified in subsection (1)  
124 of this section, the department shall be authorized to suspend the  
125 license, registration or permit of any person for being out of  
126 compliance with an order for support, as defined in Section  
127 93-11-153. The procedure for suspension of a license,  
128 registration or permit for being out of compliance with an order



129 for support, and the procedure for the reissuance or reinstatement  
130 of a license, registration or permit suspended for that purpose,  
131 and the payment of any fees for the reissuance or reinstatement of  
132 a license, registration or permit suspended for that purpose,  
133 shall be governed by Section 93-11-157 or 93-11-163, as the case  
134 may be. If there is any conflict between any provision of Section  
135 93-11-157 or 93-11-163 and any provision of this chapter, the  
136 provisions of Section 93-11-157 or 93-11-163, as the case may be,  
137 shall control.

138 (3) No person whose license has been revoked hereunder shall  
139 be entitled to file another application for a license as a bail  
140 agent within one (1) year from the effective date of such  
141 revocation or, if judicial review of such revocation is sought,  
142 within one (1) year from the date of final court order or decree  
143 affirming such revocation. This subsection shall not apply to a  
144 soliciting bail agent or bail enforcement agent whose license is  
145 revoked due solely to the revocation of the professional bail  
146 agent whom the soliciting bail agent or bail enforcement agent  
147 operates under.

148 **SECTION 3.** Section 83-39-3, Mississippi Code of 1972, is  
149 amended as follows:

150 83-39-3. (1) No person shall act in the capacity of  
151 professional bail agent, soliciting bail agent or bail enforcement  
152 agent, as defined in Section 83-39-1, or perform any of the  
153 functions, duties or powers of the same unless that person shall  
154 be qualified and licensed as provided in this chapter. The terms  
155 of this chapter shall not apply to any automobile club or  
156 association, financial institution, insurance company or other  
157 organization or association or their employees who execute bail  
158 bonds on violations arising out of the use of a motor vehicle by  
159 their members, policyholders or borrowers when bail bond is not  
160 the principal benefit of membership, the policy of insurance or of  
161 a loan to such member, policyholder or borrower.



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

176           (b) (i) No person who is a spouse of: 1. a county or  
177 municipal law enforcement official; 2. an employee of a county or  
178 municipal law enforcement official; or 3. an employee of a law  
179 enforcement entity shall write a bond for a person arrested by the  
180 spouse or the law enforcement entity which the person's spouse  
181 serves as a law enforcement official or employee; violation of  
182 this prohibition shall result in license revocation.

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

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

189           (3) (a) The department is vested with the authority to  
190 enforce this chapter. The department may conduct investigations  
191 or request other state, county or local officials to conduct  
192 investigations and promulgate such rules and regulations as may be  
193 necessary for the enforcement of this chapter. The department may  
194 establish monetary fines and collect such fines as necessary for



195 the enforcement of such rules and regulations. All fines  
196 collected shall be deposited in the Special Insurance Department  
197 Fund for the operation of that agency.

198 (b) In order to assist the department in determining an  
199 applicant's suitability for a license under this chapter, the  
200 department shall forward the fingerprints submitted with the  
201 application to the Department of Public Safety for use by that  
202 agency in conducting a criminal history check; if no disqualifying  
203 record is identified at the state level, the fingerprints shall be  
204 forwarded by the Department of Public Safety to the Federal Bureau  
205 of Investigation for a national criminal history record check.  
206 Fees related to the criminal history record check shall be paid by  
207 the applicant to the commissioner and the monies from such fees  
208 shall be deposited in the special fund in the State Treasury  
209 designated as the "Insurance Department Fund."

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

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



227           (6) The commissioner, after a hearing under Section  
228 83-39-17, may refuse to issue a privilege license for a soliciting  
229 bail agent to change from one professional bail agent to another  
230 if he owes any premium or debt to the professional bail agent with  
231 whom he is currently licensed.

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

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

248           **SECTION 4.** Section 83-39-5, Mississippi Code of 1972, is  
249 amended as follows:

250           83-39-5. Any person desiring to engage in the business of  
251 professional bail agent, soliciting bail agent, or bail  
252 enforcement agent in this state shall apply to the department for  
253 a license on forms prepared and furnished by the department. The  
254 application for a license, or renewal thereof, shall set forth,  
255 under oath, the following information:

256           (a) Full name, age, date of birth, social security  
257 number, residence during the previous five (5) years, occupation  
258 and business address for the previous five (5) years of the  
259 applicant.





260 (b) Spouse's full name, occupation and business  
261 address.

262 (c) A photograph of the applicant and a full set of  
263 fingerprints.

264 (d) A statement that he is not licensed to practice law  
265 in the State of Mississippi or any other state and that no  
266 attorney or any convicted felon has any interest in his  
267 application, either directly or indirectly.

268 (e) Any other information as may be required by this  
269 chapter or by the department.

270 (f) In the case of a professional bail agent, a  
271 statement that he will actively engage in the bail bond business.

272 (g) In the case of a soliciting bail agent, a statement  
273 that he will be employed or used by only one (1) professional bail  
274 agent and that the professional bail agent will supervise his work  
275 and be responsible for his conduct in his work. A professional  
276 bail agent shall sign the application of each soliciting bail  
277 agent employed or used by him.

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

281 **SECTION 5.** This act shall take effect and be in force from  
282 and after July 1, 2004.

