

By: Senator(s) Kirby

To: Insurance

SENATE BILL NO. 2146
(As Passed the Senate)

1 AN ACT TO AMEND SECTION 83-39-7, MISSISSIPPI CODE OF 1972, TO
2 REVISE THE AMOUNT OF THE QUALIFICATION BOND REQUIRED TO BE POSTED
3 BY AN APPLICANT FOR A PROFESSIONAL BAIL AGENT LICENSE WHO ACTS AS
4 PERSONAL SURETY; TO AMEND SECTION 99-5-19, MISSISSIPPI CODE OF
5 1972, TO REVISE THE PROVISION REGARDING PERSONS TAKING
6 INSUFFICIENT BAIL BONDS OR NEGLECTING TO TAKE BAIL BONDS; AND FOR
7 RELATED PURPOSES.

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

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

11 83-39-7. (1) Each applicant for a professional bail agent
12 license who acts as personal surety shall be required to post a
13 qualification bond in the amount of Fifteen Thousand Dollars
14 (\$15,000.00) with the department. From and after July 1, 2005,
15 each applicant shall be required to post a qualification bond in
16 the amount of Twenty Thousand Dollars (\$20,000.00). From and
17 after July 1, 2006, each applicant shall be required to post a
18 qualification bond in the amount of Twenty-five Thousand Dollars
19 (\$25,000.00). From and after July 1, 2007, each applicant shall
20 be required to post a qualification bond in the amount of Thirty
21 Thousand Dollars (\$30,000.00). The qualification bond shall be
22 made by depositing with the commissioner the aforesaid amount of
23 bonds of the United States, State of Mississippi, or any agency or
24 subdivision thereof, or shall be written by an insurer as defined
25 in this chapter, shall meet the specifications as may be required
26 and defined in this chapter, and shall meet such specifications as
27 may be required and approved by the department. The bond shall be
28 conditioned upon the full and prompt payment of any bail bond
29 issued by such professional bail agent into the court ordering the

30 bond forfeited. The bond shall be to the people of the State of
31 Mississippi in favor of any court of this state, whether
32 municipal, justice, county, circuit, Supreme or other court. If
33 any bond issued by a professional bail agent is declared forfeited
34 and judgment entered thereon by a court of proper jurisdiction as
35 authorized in Section 99-5-25, and the amount of the bond is not
36 paid within ninety (90) days, that court shall order the
37 department to declare the qualification bond of the professional
38 bail agent to be forfeited and the license revoked. If the bond
39 was not forfeited correctly under Section 99-5-25, it shall be
40 returned to the court as uncollectible. The department shall then
41 order the surety on the qualification bond to deposit with the
42 court an amount equal to the amount of the bond issued by the
43 professional bail agent and declared forfeited by the court, or
44 the amount of the qualification bond, whichever is the smaller
45 amount. The department shall, after hearing held upon not less
46 than ten (10) days' written notice, suspend the license of the
47 professional bail agent until such time as another qualification
48 bond in the required amount is posted with the department. The
49 revocation of the license of the professional bail agent shall
50 also serve to revoke the license of each soliciting bail agent and
51 bail enforcement agent employed or used by such professional bail
52 agent. In the event of a final judgment of forfeiture of any bail
53 bond written under the provisions of this chapter, the amount of
54 money so forfeited by the final judgment of the proper court, less
55 all accrued court costs and excluding any interest charges or
56 attorney's fees, shall be refunded to the bail agent or his
57 insurance company upon proper showing to the court as to which is
58 entitled to same, provided the defendant in such cases is returned
59 to the sheriff of the county to which the original bail bond was
60 returnable within twelve (12) months of the date of such final
61 judgment, or proof made of incarceration of the defendant in
62 another jurisdiction, and that a "Hold Order" has been placed upon

63 the defendant for return of the defendant to the sheriff upon
64 release from the other jurisdiction, the return to the sheriff to
65 be the responsibility of the professional bail agent as provided
66 in subsection (2) of this section, then the bond forfeiture shall
67 be stayed and remission made upon petition to the court, in the
68 amount found in the court's discretion to be just and proper. A
69 bail agent licensed under this chapter shall have a right to apply
70 for and obtain from the proper court an extension of time delaying
71 a final judgment of forfeiture if such bail agent can
72 satisfactorily establish to the court wherein such forfeiture is
73 pending that the defendant named in the bail bond is lawfully in
74 custody outside of the State of Mississippi.

75 (2) The professional bail agent shall satisfy the
76 responsibility to return the defendant who has been held by a
77 "Hold Order" in another jurisdiction upon release from the other
78 jurisdiction:

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

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

86 **SECTION 2.** Section 99-5-19, Mississippi Code of 1972, is
87 amended as follows:

88 99-5-19. If any person, except a properly authorized judge,
89 authorized to release a criminal defendant neglects to take a bail
90 bond, or if the bail bond from any cause is insufficient at the
91 time he took and approved the same, on exceptions taken and filed
92 before the close of the next term, after the same should have been
93 returned, and upon reasonable notice thereof to the person, he
94 shall stand as special bail, and judgment shall be rendered
95 against him as such, except when bond is tendered by a fidelity or

96 insurance company or professional bail agent or its bail agent
97 authorized by Mississippi state license to act as bail surety.
98 The person taking and approving a bail bond from a fidelity or
99 insurance company or professional bail agent or its bail agent
100 with a valid Mississippi state license shall bear no financial
101 liability on the bail bond in the event of a bail bond forfeiture
102 or default.

103 **SECTION 3.** This act shall take effect and be in force from
104 and after July 1, 2004.