

By: Representative Rogers (61st)

To: Judiciary B

HOUSE BILL NO. 719

1 AN ACT TO AMEND SECTION 83-39-1, MISSISSIPPI CODE OF 1972, TO
2 REVISE DEFINITIONS REGARDING BAIL BONDS AND AGENTS; TO AMEND
3 SECTION 83-39-3, MISSISSIPPI CODE OF 1972, TO REVISE CERTAIN
4 LICENSE REQUIREMENTS; AND FOR RELATED PURPOSES.

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

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

8 83-39-1. The following terms when used in this chapter shall
9 have the following meanings:

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

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

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

16 (d) "Professional bail agent" means any individual who
17 shall furnish bail, acting as a licensed personal surety agent or
18 as a licensed limited surety agent representing an insurer as
19 defined by this chapter who is duly licensed by the commissioner.

20 The above definition shall not include, and this chapter does not
21 apply to, any individual who acts as personal surety in instances
22 where there is no compensation charged or received for such
23 service.

24 (e) "Soliciting bail agent" means any person who, as an
25 agent or employee of a professional bail agent, or as an
26 independent contractor, for compensation or otherwise, shall
27 solicit, advertise or actively seek bail bond business for or on
28 behalf of a professional bail agent and who assists the

29 professional bail agent in presenting the defendant in court when
30 required or assists in the apprehension and surrender of the
31 defendant to the court or keeps the defendant under necessary
32 surveillance who is duly licensed by the commissioner after
33 successfully completing an examination by the department for the
34 restricted lines of business.

35 (f) "Bail enforcement agent" means a person who assists
36 the professional bail agent in presenting the defendant in court
37 when required, or who assists in the apprehension and surrender of
38 the defendant to the court or who keeps the defendant under
39 necessary surveillance. Nothing herein shall affect the right of
40 professional bail agents to have counsel or to ask assistance of
41 law enforcement officers who is duly licensed by the commissioner
42 after successfully completing an examination by the department for
43 the restricted lines of business.

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

51 (h) "Personal surety agent" means any individual who,
52 having posted the necessary qualification bond with the
53 commissioner as required by Section 83-39-7, and duly licensed by
54 the commissioner, after successfully completing an examination by
55 the department for the restricted lines of business may execute
56 and sign bail bonds in connection with judicial proceedings.

57 (i) "Surety" means the insurer or the personal surety
58 agent guaranteeing the bail bond and for the purpose of process
59 does not mean the agent of such insurer or personal surety agent.

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

62 83-39-3. (1) No person shall act in the capacity of
63 professional bail agent, soliciting bail agent or bail enforcement
64 agent, as defined in Section 83-39-1, or perform any of the
65 functions, duties or powers of the same unless that person shall
66 be qualified and licensed as provided in this chapter. The terms
67 of this chapter shall not apply to any automobile club or
68 association, financial institution, insurance company or other
69 organization or association or their employees who execute bail
70 bonds on violations arising out of the use of a motor vehicle by
71 their members, policyholders or borrowers when bail bond is not
72 the principal benefit of membership, the policy of insurance or of
73 a loan to such member, policyholder or borrower.

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

87 (b) (i) No person who is a spouse of: 1. a county or
88 municipal law enforcement official; 2. an employee of a county or
89 municipal law enforcement official; or 3. an employee of a law
90 enforcement entity shall write a bond for a person arrested by the
91 spouse or the law enforcement entity which the person's spouse
92 serves as a law enforcement official or employee; violation of
93 this prohibition shall result in license revocation.

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

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

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

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

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

126 (6) The commissioner, after a hearing under Section
127 83-39-17, may refuse to issue a privilege license for a soliciting
128 bail agent to change from one professional bail agent to another
129 if he owes any premium or debt to the professional bail agent with
130 whom he is currently licensed. The commissioner, after a hearing
131 under Section 83-39-17, may refuse to issue a license for a
132 limited surety agent if he owes any premium or debt to an insurer
133 to which he has been appointed.

134 (7) From and after May 1, 2000, prior to the issuance of any
135 professional bail agent, soliciting bail agent or bail enforcement
136 agent license, the applicant shall submit proof of completion of
137 forty (40) classroom hours of prelicensing education approved
138 by * * * the Professional Bail Agents Association of Mississippi,
139 Inc., and conducted by the Mississippi Judicial College or any
140 institution of higher learning or community college located within
141 the State of Mississippi. The hours shall be acquired in a
142 classroom and may not be acquired through correspondence or over
143 the Internet.

144 (8) From and after May 1, 2000, prior to the renewal of any
145 professional bail agent, soliciting bail agent or bail enforcement
146 agent license, the applicant shall submit proof of completion of
147 eight (8) classroom hours of continuing education approved by the
148 department and the Professional Bail Agents Association of
149 Mississippi, Inc., and provided by the Mississippi Judicial
150 College or any institution of higher learning or community college
151 located within the State of Mississippi. The hours shall be
152 acquired in a classroom and may not be acquired through
153 correspondence or over the Internet.

154 **SECTION 3.** This act shall take effect and be in force from
155 and after July 1, 2006.