

By: Representatives Compretta, Rogers (61st) To: Judiciary B

HOUSE BILL NO. 880
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 83-39-25, MISSISSIPPI CODE OF 1972,
2 TO REVISE CERTAIN BAIL AGENT LICENSING AND PREMIUM PROVISIONS; TO
3 AMEND SECTION 83-39-29, MISSISSIPPI CODE OF 1972, TO REVISE THE
4 PENALTIES FOR AIDING AND ABETTING BOND JUMPING; TO AMEND SECTION
5 99-5-25, MISSISSIPPI CODE OF 1972, TO REVISE BAIL BOND FORFEITURE
6 PROVISIONS; AND FOR RELATED PURPOSES.

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

8 **SECTION 1.** Section 83-39-25, Mississippi Code of 1972, is
9 amended as follows:

10 83-39-25. (1) A professional bail agent or his agent shall
11 charge and collect for his premium, commission, or fee an amount
12 of ten percent (10%) of the amount of bail per bond posted by him,
13 or One Hundred Dollars (\$100.00), whichever is greater, except on
14 a bond on a defendant who is charged with a capital offense, or on
15 a defendant who resides outside the State of Mississippi, in which
16 case the premium, commission or fee shall be fifteen percent (15%)
17 of the amount of bail, per bond posted by him, or One Hundred
18 Dollars (\$100.00), whichever is greater.

19 * * *

20 (2) A professional bail agent or his agent shall also charge
21 an additional Fifty Dollars (\$50.00) processing fee on each bond
22 issued by him.

23 (3) Nothing herein shall prohibit a professional bail agent
24 or his agent from holding collateral or taking a security interest
25 in collateral for the purpose of insuring the payment of the
26 premium of the bond posted or indemnifying the professional bail
27 agent for losses incurred due to a forfeiture of a bond or the
28 costs of apprehension and surrender of the principal.



29 **SECTION 2.** Section 83-39-29, Mississippi Code of 1972, is
30 amended as follows:

31 83-39-29. (1) The department may provide information to the
32 district attorney in the district in which a professional bail
33 agent, a soliciting bail agent or bail enforcement agent is
34 domiciled so that proper legal action may be pursued against any
35 licensee who is alleged to have violated any provision of Chapter
36 39 of Title 83. Such licensee is guilty of a misdemeanor and
37 shall be subject to a fine of not more than One Thousand Dollars
38 (\$1,000.00), imprisonment in the county jail for not more than one
39 (1) year, or both. Any insurer violating any provision of Chapter
40 39 of Title 83 may be fined in an amount not to exceed Fifty
41 Thousand Dollars (\$50,000.00).

42 (2) Any person who acts or attempts to solicit, write or
43 present a bail bond as a professional bail agent, soliciting bail
44 agent, or bail enforcement agent as defined in this chapter and
45 who is not licensed under this chapter is guilty of a misdemeanor
46 and, upon conviction, shall be subject to a fine of not more than
47 One Thousand Dollars (\$1,000.00), imprisonment in the county jail
48 for not more than one (1) year, or both.

49 (3) Any person who acts or attempts to act, represents
50 himself to be, or impersonates a professional bail agent, a
51 soliciting bail agent or a bail enforcement agent as defined in
52 this chapter by attempting to arrest or detaining any person, and
53 who is not licensed under this chapter, is guilty of a misdemeanor
54 and, upon conviction, shall be subject to a fine of not more than
55 Five Thousand Dollars (\$5,000.00), imprisonment for not more than
56 one (1) year, or both.

57 (4) A bail agent, bail enforcement agent or bail enforcement
58 agent from another state shall report to the Sheriff's Department
59 of the county in which he is attempting to locate a fugitive prior
60 to beginning to look for the fugitive to prove his licensing and
61 legal right to the fugitive. Failure to prove licensing shall be



62 an offense punishable by a fine not to exceed One Thousand Dollars
63 (\$1,000.00).

64 (5) Any person charged with a criminal violation who has
65 obtained his release from custody by having a professional bail
66 agent, insurer, agent of a bail agent or insurer, or any person
67 other than himself furnish his bail bond and who fails to appear
68 in court, at the time and place ordered by the court, is guilty of
69 "bond jumping" and, upon conviction, shall be subject to a fine of
70 not more than One Thousand Dollars (\$1,000.00), imprisonment in
71 the county jail for not more than one (1) year, or both, and
72 payment of restitution for reasonable expenses incurred returning
73 the defendant to court.

74 (6) Any person who knowingly and intentionally aids and
75 abets any person in the commission of the offense of bond jumping,
76 whether the person committing the principal offense is actually
77 convicted, shall be guilty of aiding and abetting bond jumping and
78 upon conviction, shall be subject to a fine of not more than One
79 Thousand Dollars (\$1,000.00) or imprisonment in the county jail
80 for not more than one (1) year, or both, and payment of
81 restitution for reasonable expenses incurred in returning the
82 defendant to court. Any person who is convicted of aiding and
83 abetting shall be jointly and severally liable for payment of
84 restitution for reasonable expenses incurred in returning the
85 defendant to court.

86 (7) Any bail agent who is prejudiced or injured by the
87 commission of any of the offenses set forth in this section shall
88 have standing to file a complaint alleging the commission of the
89 offense or offenses.

90 **SECTION 3.** Section 99-5-25, Mississippi Code of 1972, is
91 amended as follows:

92 99-5-25. (1) (a) The purpose of bail is to guarantee
93 appearance and a bail bond shall not be forfeited for any other
94 reason.



95 **(b)** If a defendant in any criminal case, proceeding or
96 matter fails to appear for any proceeding as ordered by the court,
97 then the court shall order the bail forfeited and a judgment nisi
98 and a bench warrant issued at the time of nonappearance. * * *
99 The clerk of the court shall notify the surety of the forfeiture
100 by writ of scire facias, with a copy of the judgment nisi and
101 bench warrant attached thereto, within ten (10) working days of
102 such order of judgment nisi either by personal service or by
103 certified mail. Failure of the clerk to provide the required
104 notice within ten (10) working days shall constitute prima facie
105 evidence that the order should be set aside.

106 **(c)** The judgment nisi shall be returnable for ninety
107 (90) days from the date of issuance. If during such period the
108 defendant appears before the court, or is arrested and
109 surrendered, then the judgment nisi shall be set aside. If the
110 surety * * * produces the defendant or provides to the court
111 reasonable mitigating circumstances upon such showing, then the
112 forfeiture shall not be made final. If the forfeiture is made
113 final, * * * a copy of the final judgment shall be served on the
114 surety within ten (10) working days by either personal service or
115 certified mail. Reasonable mitigating circumstances shall be that
116 the defendant is incarcerated in another jurisdiction, that the
117 defendant is hospitalized under a doctor's care, that the
118 defendant is in a recognized drug rehabilitation program, that the
119 defendant has been placed in a witness protection program and it
120 shall be the duty of any such agency placing such defendant into a
121 witness protection program to notify the court and the court to
122 notify the surety, or any other reason justifiable to the court.

123 **(2)** If a final judgment is entered against a surety licensed
124 by the Department of Insurance and has not been set aside after
125 ninety (90) days, or later if such time is extended by the court
126 issuing the judgment nisi, then the court shall order the
127 department to revoke the authority of such surety to write bail



128 bonds. The commissioner shall, upon notice of the court, notify
129 said surety within five (5) working days of receipt of revocation.
130 If after ten (10) working days of such notification the revocation
131 order has not been set aside by the court, then the commissioner
132 shall revoke the authority of the surety and all agents of the
133 surety and shall notify the sheriff of every county of such
134 revocation.

135 (3) If within twelve (12) months of the date of the final
136 forfeiture the defendant appears for court, is arrested or
137 surrendered to the court, or if the defendant is found to be
138 incarcerated in another jurisdiction and a hold order placed on
139 the defendant, then the amount of bail, less reasonable
140 extradition cost, excluding attorney fees, shall be refunded by
141 the court upon application by the surety.

142 **SECTION 4.** This act shall take effect and be in force from
143 and after July 1, 2009.

