

By: Senator(s) Burton

To: Accountability,  
Efficiency, Transparency

SENATE BILL NO. 2664  
(As Sent to Governor)

1 AN ACT TO AMEND SECTION 83-39-3, MISSISSIPPI CODE OF 1972, TO  
2 PROVIDE THAT NO LICENSE SHALL BE ISSUED OR RENEWED FOR ANY PERSON  
3 WHO HAS EVER BEEN CONVICTED OF A CRIME THAT THE COMMISSIONER FINDS  
4 DIRECTLY RELATES TO THE DUTIES AND RESPONSIBILITIES OF THE  
5 BUSINESS OF A PROFESSIONAL BAIL AGENT, SOLICITING BAIL AGENT, OR  
6 BAIL ENFORCEMENT AGENT, INCLUDING, BUT NOT LIMITED TO, ANY FELONY  
7 THAT INVOLVED AN ACT OF FRAUD, DISHONESTY, OR A BREACH OF TRUST,  
8 OR MONEY LAUNDERING; TO PROVIDE THAT THE INSURANCE DEPARTMENT MUST  
9 APPROVE THE HOURS SUBMITTED FOR PRELICENSING AND CONTINUING  
10 EDUCATION REQUIREMENTS; TO REMOVE THE PROVISION THAT PRELICENSING  
11 AND CONTINUING EDUCATION REQUIREMENTS MUST BE CLASSROOM HOURS AND  
12 NOT CONDUCTED ONLINE; TO REQUIRE THE INSURANCE DEPARTMENT TO  
13 ESTABLISH A STATEWIDE ELECTRONIC BONDSMEN REGISTRY FOR EACH  
14 PROFESSIONAL BAIL AGENT, LIMITED SURETY AGENT, BAIL SOLICITING  
15 AGENT, BAIL ENFORCEMENT AGENT OR INSURANCE COMPANY WRITING BAIL  
16 BONDS TO REGISTER AND MAINTAIN A RECORD OF EACH REQUIRED LICENSE,  
17 POWER OF APPOINTMENT AND POWER OF ATTORNEY; TO AMEND SECTION  
18 83-39-7, MISSISSIPPI CODE OF 1972, TO REQUIRE THE INSURANCE  
19 DEPARTMENT TO SUBMIT A REPORT ON OR BEFORE DECEMBER 1, 2017, TO  
20 THE SENATE AND HOUSE OF REPRESENTATIVES COMMITTEES ON  
21 ACCOUNTABILITY, EFFICIENCY AND TRANSPARENCY THAT DETAILS THE  
22 AMOUNT OF ALL BONDS OR UNDERTAKINGS THAT EACH BAIL BONDSMAN HAS  
23 WRITTEN IN THIS STATE ON WHICH THE BAIL BONDSMAN IS ABSOLUTELY OR  
24 CONDITIONALLY LIABLE SINCE THE BAIL BOND DATABASE WAS ESTABLISHED  
25 BY THE DEPARTMENT; TO AMEND SECTION 83-39-13, MISSISSIPPI CODE OF  
26 1972, TO REQUIRE EACH PROFESSIONAL BAIL AGENT TO PROVIDE TO THE  
27 INSURANCE DEPARTMENT AN ANNUAL FINANCIAL STATEMENT; TO AUTHORIZE  
28 THE MISSISSIPPI INSURANCE DEPARTMENT TO ESTABLISH, ON OR BEFORE  
29 OCTOBER 1, 2016, A BAIL BOND DATABASE WITHIN THE DEPARTMENT FOR  
30 THE REPORTING OF ALL BAIL BONDS WRITTEN BY PERSONAL SURETY AGENTS  
31 AND LIMITED SURETY AGENTS IN THIS STATE; TO REQUIRE, BY NOVEMBER  
32 15, 2016, THAT EACH BAIL AGENT INPUT HIS OR HER BAIL BOND  
33 INFORMATION INTO THE DATABASE FOR ALL BONDS WRITTEN FROM AND AFTER  
34 OCTOBER 1, 2016; TO REQUIRE, BY THE FIFTEENTH DAY OF EACH



35 SUBSEQUENT MONTH, THAT EACH BAIL AGENT UPDATE THE BAIL BOND  
36 DATABASE REGARDING HIS OR HER BAIL BOND INFORMATION FOR BAIL BONDS  
37 WRITTEN FROM AND AFTER OCTOBER 1, 2016, AND THAT EACH UPDATE BE  
38 CURRENT THROUGH THE LAST DAY OF THE PREVIOUS MONTH; TO PROVIDE  
39 THAT ANY BAIL AGENT WHO FAILS TO COMPLY WITH THE DATABASE  
40 REPORTING PROVISIONS SHALL BE ASSESSED A FINE IN AN AMOUNT NOT TO  
41 EXCEED ONE THOUSAND DOLLARS (\$1,000.00) PER VIOLATION; AND FOR  
42 RELATED PURPOSES.

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

44 **SECTION 1.** Section 83-39-3, Mississippi Code of 1972, is  
45 amended as follows:

46 83-39-3. (1) No person shall act in the capacity of  
47 professional bail agent, soliciting bail agent or bail enforcement  
48 agent, as defined in Section 83-39-1, or perform any of the  
49 functions, duties or powers of the same unless that person shall  
50 be qualified and licensed as provided in this chapter. The terms  
51 of this chapter shall not apply to any automobile club or  
52 association, financial institution, insurance company or other  
53 organization or association or their employees who execute bail  
54 bonds on violations arising out of the use of a motor vehicle by  
55 their members, policyholders or borrowers when bail bond is not  
56 the principal benefit of membership, the policy of insurance or of  
57 a loan to such member, policyholder or borrower.

58 (2) (a) No license shall be issued or renewed except in  
59 compliance with this chapter, and none shall be issued except to  
60 an individual. No firm, partnership, association or corporation,  
61 as such, shall be so licensed. No professional bail agent shall  
62 operate under more than one (1) trade name. A soliciting bail  
63 agent and bail enforcement agent shall operate only under the



64 professional bail agent's name. No license shall be issued to or  
65 renewed for any person who has ever been convicted of a \* \* \*  
66 crime that the commissioner finds directly relates to the duties  
67 and responsibilities of the business of a professional bail agent,  
68 soliciting bail agent, or bail enforcement agent, including, but  
69 not limited to, any felony that involves an act of fraud,  
70 dishonesty, or a breach of trust, or money laundering. No license  
71 shall be issued to any person who is under twenty-one (21) years  
72 of age. No person engaged as a law enforcement or judicial  
73 official or attorney shall be licensed hereunder. A person who is  
74 employed in any capacity at any jail or corrections facility that  
75 houses state, county or municipal inmates who are or may be  
76 eligible for bail, whether the person is a public employee,  
77 independent contractor, or the employee of an independent  
78 contractor, may not be licensed under this section.

79 (b) (i) No person who is a relative of either a sworn  
80 state, county or municipal law enforcement official or judicial  
81 official, or an employee, independent contractor or the  
82 contractor's employee of any police department, sheriff's  
83 department, jail or corrections facility that houses or holds  
84 federal, state, county or municipal inmates who are or may be  
85 eligible for bail, shall write a bond in the county where the law  
86 enforcement entity or court in which the person's relative serves  
87 is located. "Relative" means a spouse, parent, grandparent,  
88 child, sister, brother, or a consanguineous aunt, uncle, niece or



89 nephew. Violation of this prohibition shall result in license  
90 revocation.

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

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

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

106 (4) (a) Each license issued hereunder shall expire  
107 biennially on the last day of September of each odd-numbered year,  
108 unless revoked or suspended prior thereto by the department, or  
109 upon notice served upon the commissioner by the insurer that the  
110 authority of a limited surety agent to act for or on behalf of  
111 such insurer had been terminated, or upon notice served upon the  
112 commissioner that the authority of a soliciting bail agent or bail



113 enforcement agent had been terminated by such professional bail  
114 agent.

115 (b) A soliciting bail agent or bail enforcement agent  
116 may, upon termination by a professional bail agent or upon his  
117 cessation of employment with a professional bail agent, be  
118 relicensed without having to comply with the provisions of  
119 subsection (7) (a) and (b) of this section, if he has held a  
120 license in his respective license category within ninety (90) days  
121 of the new application, meets all other requirements set forth in  
122 Section 83-39-5 and subsection (7) (b) of this section, and  
123 notifies the previous professional bail agent in writing that he  
124 is submitting an application for a new license.

125 (5) The department shall prepare and deliver to each  
126 licensee a license showing the name, address and classification of  
127 the licensee, and shall certify that the person is a licensed  
128 professional bail agent, being designated as a personal surety  
129 agent or a limited surety agent, a soliciting bail agent or a bail  
130 enforcement agent. In addition, the license of a soliciting bail  
131 agent or bail enforcement agent, shall show the name of the  
132 professional bail agent and any other information as the  
133 commissioner deems proper.

134 (6) The commissioner, after a hearing under Section  
135 83-39-17, may refuse to issue a privilege license for a soliciting  
136 bail agent to change from one (1) professional bail agent to  
137 another if he owes any premium or debt to the professional bail



138 agent with whom he is currently licensed. The commissioner, after  
139 a hearing under Section 83-39-17, shall refuse to issue a license  
140 for a limited surety agent if he owes any premium or debt to an  
141 insurer to which he has been appointed. If a license has been  
142 granted to a limited surety agent or a soliciting bail agent who  
143 owed any premium or debt to an insurer or professional bail agent,  
144 the commissioner, after a hearing under Section 83-39-17, shall  
145 revoke the license.

146 (7) (a) Before the issuance of any initial professional  
147 bail agent, soliciting bail agent or bail enforcement agent  
148 license, the applicant shall submit proof of successful completion  
149 of forty (40) \* \* \* hours of prelicensing education approved by  
150 the \* \* \* Mississippi Insurance Department unless the applicant is  
151 currently licensed under this chapter on July 1, 2014, and has  
152 maintained that license in compliance with the continuing  
153 education requirements of subsection (8) of this section. \* \* \*  
154 Any applicant who has met all continuing education requirements as  
155 set forth in subsection (8) (a) of this section and has been  
156 properly licensed under this chapter within ninety (90) days of  
157 submitting an application for a license shall not be subject to  
158 the prelicensing education requirement.

159 (b) All applicants for a professional bail agent,  
160 soliciting bail agent or bail enforcement agent license applying  
161 for an original license after July 1, 2014, shall successfully  
162 complete a limited examination by the department for the



163 restricted lines of business before the license can be issued;  
164 however, this examination requirement shall not apply to any  
165 licensed bail soliciting agent and bail enforcement agent  
166 transferring to another professional bail agent license, any  
167 licensed bail soliciting agent applying for a bail enforcement  
168 agent license, and any licensed bail enforcement agent applying  
169 for a bail soliciting agent license. An applicant shall only be  
170 required to successfully complete the limited examination once.

171 (c) Beginning on July 1, 2011, in order to assist the  
172 department in determining an applicant's suitability for a license  
173 under this chapter, the applicant shall submit a set of  
174 fingerprints with the submission of an application for license.  
175 The department shall forward the fingerprints to the Department of  
176 Public Safety for the purpose of conducting a criminal history  
177 record check. If no disqualifying record is identified at the  
178 state level, the Department of Public Safety shall forward the  
179 fingerprints to the Federal Bureau of Investigation for a national  
180 criminal history record check. Fees related to the criminal  
181 history record check shall be paid by the applicant to the  
182 commissioner and the monies from such fees shall be deposited in  
183 the special fund in the State Treasury designated as the  
184 "Insurance Department Fund."

185 (8) (a) Before the renewal of the license of any  
186 professional bail agent, soliciting bail agent or bail enforcement



187 agent, the applicant shall submit proof of successful completion  
188 of continuing education hours as follows:

189 (i) There shall be no continuing education  
190 required for the first licensure year;

191 (ii) Except as provided in subparagraph (i), eight  
192 (8) \* \* \* hours of continuing education for each year or part of a  
193 year of the two-year license period, for a total of sixteen (16)  
194 hours per license period.

195 (b) If an applicant for renewal failed to obtain the  
196 required eight (8) hours for each year of the license period  
197 during the actual license year in which the education was required  
198 to be obtained, the applicant shall not be eligible for a renewal  
199 license but shall be required to obtain an original license and be  
200 subject to the education requirements set forth in subsection (7).  
201 The commissioner shall not be required to comply with Section  
202 83-39-17 in denying an application for a renewal license under  
203 this paragraph (b).

204 (c) The education hours required under this subsection  
205 (8) shall \* \* \* be approved by the \* \* \* Mississippi Insurance  
206 Department.

207 (d) The continuing education requirements under this  
208 subsection (8) shall not be required for renewal of a bail agent  
209 license for any applicant who is sixty-five (65) years of age and  
210 who has been licensed as a bail agent for a continuous period of  
211 twenty (20) years immediately preceding the submission of the





212 application as evidenced by submission of an affidavit, under  
213 oath, on a form prescribed by the department, signed by the  
214 licensee attesting to satisfaction of the age, licensing, and  
215 experience requirements of this paragraph (d).

216 (9) No license as a professional bail agent shall be issued  
217 unless the applicant has been duly licensed by the department as a  
218 soliciting bail agent for a period of three (3) consecutive years  
219 immediately preceding the submission of the application. However,  
220 this subsection (9) shall not apply to any person who was licensed  
221 as a professional bail agent before July 1, 2011.

222 (10) A nonresident person may be licensed as a professional  
223 bail agent, bail soliciting agent or bail enforcement agent if:

224 (a) The person's home state awards licenses to  
225 residents of this state on the same basis; and

226 (b) The person has satisfied all requirements set forth  
227 in this chapter.

228 (11) On or before October 1, 2016, the Insurance Department  
229 shall establish a statewide Electronic Bondsmen Registry for all  
230 licenses, powers of appointment and powers of attorney requiring  
231 registration under this section. Once established, each  
232 professional bail agent, limited surety agent, bail soliciting  
233 agent, bail enforcement agent or insurance company writing bail  
234 bonds shall be required under this subsection (11) to register and  
235 maintain a record of each required license, power of appointment  
236 and power of attorney in the registry. Failure to comply with



237 this provision will subject the agent to the penalties provided in  
238 Section 83-39-29.

239 **SECTION 2.** Section 83-39-7, Mississippi Code of 1972, is  
240 amended as follows:

241 83-39-7. (1) (a) Each applicant for a professional bail  
242 agent license who acts as personal surety shall be required to  
243 post a qualification bond in the amount of Thirty Thousand Dollars  
244 (\$30,000.00).

245 (b) The Insurance Department shall submit a report to  
246 the Senate and House of Representatives Committees on  
247 Accountability, Efficiency and Transparency that details the  
248 amount of all bonds or undertakings that each bail bondsman has  
249 written in this state on which the bail bondsman is absolutely or  
250 conditionally liable since the Bail Bond Database was established  
251 by the department. The report shall be submitted on or before  
252 December 1, 2017. The report shall also include the number of  
253 bail bondsmen who have failed to comply with the database  
254 reporting requirements, if any, the technical issues that may have  
255 occurred since the database was established and any suggested  
256 legislation to ensure each bail bondsman's continued compliance  
257 with the database reporting requirements.

258 (2) The qualification bond shall be made by depositing with  
259 the commissioner the aforesaid amount of bonds of the United  
260 States, the State of Mississippi or any agency or subdivision  
261 thereof, or a certificate of deposit issued by an institution



262 whose deposits are insured by the Federal Deposit Insurance  
263 Corporation and made payable jointly to the owner and the  
264 Department of Insurance, or shall be written by an insurer as  
265 defined in this chapter, shall meet the specifications as may be  
266 required and defined in this chapter, and shall meet such  
267 specifications as may be required and approved by the department.  
268 The bond shall be conditioned upon the full and prompt payment of  
269 any bail bond issued by such professional bail agent into the  
270 court ordering the bond forfeited. The bond shall be to the  
271 people of the State of Mississippi in favor of any court of this  
272 state, whether municipal, justice, county, circuit, Supreme or  
273 other court.

274 (3) If any bond issued by a professional bail agent is  
275 declared forfeited and judgment entered thereon by a court of  
276 proper jurisdiction as authorized in Section 99-5-25, and the  
277 amount of the bond is not paid within ninety (90) days, that court  
278 shall order the department to declare the qualification bond of  
279 the professional bail agent to be forfeited and the license  
280 revoked. If the bond was not forfeited correctly under Section  
281 99-5-25, it shall be returned to the court as uncollectible. The  
282 department shall then order the surety on the qualification bond  
283 to deposit with the court an amount equal to the amount of the  
284 bond issued by the professional bail agent and declared forfeited  
285 by the court, or the amount of the qualification bond, whichever  
286 is the smaller amount. The department shall, after hearing held



287 upon not less than ten (10) days' written notice, suspend the  
288 license of the professional bail agent until such time as another  
289 qualification bond in the required amount is posted with the  
290 department. The revocation of the license of the professional  
291 bail agent shall also serve to revoke the license of each  
292 soliciting bail agent and bail enforcement agent employed or used  
293 by such professional bail agent. In the event of a final judgment  
294 of forfeiture of any bail bond written under the provisions of  
295 this chapter, the amount of money so forfeited by the final  
296 judgment of the proper court, less all accrued court costs and  
297 excluding any interest charges or attorney's fees, shall be  
298 refunded to the bail agent or his insurance company upon proper  
299 showing to the court as to which is entitled to same, provided the  
300 defendant in such cases is returned to the sheriff of the county  
301 to which the original bail bond was returnable within twelve (12)  
302 months of the date of such final judgment, or proof made of  
303 incarceration of the defendant in another jurisdiction, and that a  
304 "Hold Order" has been placed upon the defendant for return of the  
305 defendant to the sheriff upon release from the other jurisdiction,  
306 the return to the sheriff to be the responsibility of the  
307 professional bail agent \* \* \*, then the bond forfeiture shall be  
308 stayed and remission made upon petition to the court, in the  
309 amount found in the court's discretion to be just and proper. A  
310 bail agent licensed under this chapter shall have a right to apply  
311 for and obtain from the proper court an extension of time delaying



312 a final judgment of forfeiture if such bail agent can  
313 satisfactorily establish to the court wherein such forfeiture is  
314 pending that the defendant named in the bail bond is lawfully in  
315 custody outside of the State of Mississippi.

316 ( \* \* \*4) The qualification bond may be released by the  
317 department to the professional bail personal surety agent upon an  
318 order to release the qualification bond issued by a court of  
319 competent jurisdiction, or upon written request to the department  
320 by the professional bail personal surety agent no earlier than  
321 five (5) years after the expiration date of his last license.

322 **SECTION 3.** Section 83-39-13, Mississippi Code of 1972, is  
323 amended as follows:

324 83-39-13. (1) Each professional bail agent licensed under  
325 this chapter, under oath, shall \* \* \* provide to the Insurance  
326 Department an annual financial statement. The annual financial  
327 statement shall show assets, liabilities and net worth as of the  
328 end of the most recent calendar year. The statement shall be  
329 submitted annually to the department by June 1.

330 (2) (a) For purposes of applicable examinations, a  
331 professional bail agent licensed in this state shall maintain at  
332 least one (1) office physically located in any municipality or  
333 county in this state, to serve as his principal place of business  
334 operations where records pertaining to his bail agent business  
335 conducted in Mississippi are maintained and this office location  
336 shall be registered with the Insurance Department \* \* \*.



337 (b) When applying for an original or renewal license as  
338 a professional bail agent, the applicant shall indicate the  
339 address of the office location to serve as his principal place of  
340 business operations, and this address shall be evidenced on the  
341 face of the license issued to the licensee.

342 (c) If for any reason the professional bail agent  
343 changes the location of his principal place of business  
344 operations, removes to another state, or no longer continues in  
345 the profession as a bail agent, the bail agent shall register the  
346 new location with the department, or notify the department of his  
347 removal from the state or his cessation of business as a  
348 professional bail agent as appropriate.

349 (3) On or before October 1, 2016, the Mississippi Insurance  
350 Department shall establish a Bail Bond Database within the  
351 department for the reporting of all bail bonds written by personal  
352 surety agents and limited surety agents in this state. By  
353 November 15, 2016, each bail agent must input his or her bail bond  
354 information into the Bail Bond Database for all bonds written from  
355 and after October 1, 2016. By the fifteenth day of each  
356 subsequent month, each bail agent must update the Bail Bond  
357 Database regarding his or her bail bond information for bail bonds  
358 written from and after October 1, 2016, and each update must be  
359 current through the last day of the previous month. Any bail  
360 agent who fails to comply with the provisions of this subsection



361 (3) shall be assessed a fine in an amount not to exceed One  
362 Thousand Dollars (\$1,000.00) per violation.

363 **SECTION 4.** This act shall take effect and be in force from  
364 and after July 1, 2016, and shall stand repealed on July 1, 2018.

