

By: Representative White

To: Judiciary B

HOUSE BILL NO. 902

1 AN ACT TO REENACT SECTION 83-39-3, MISSISSIPPI CODE OF 1972,
2 WHICH REQUIRES PROFESSIONAL BAIL AGENTS, SOLICITING BAIL AGENTS
3 AND BAIL ENFORCEMENT AGENTS TO BE LICENSED BY THE DEPARTMENT OF
4 INSURANCE; TO REENACT SECTION 83-39-7, MISSISSIPPI CODE OF 1972,
5 WHICH REQUIRES EACH APPLICANT FOR A PROFESSIONAL BAIL AGENT
6 LICENSE WHO ACTS AS PERSONAL SURETY TO POST A QUALIFICATION BOND
7 WITH THE COMMISSIONER OF INSURANCE; TO AMEND REENACTED SECTION
8 83-39-7, MISSISSIPPI CODE OF 1972, TO REQUIRE ALL APPLICANTS FOR A
9 PROFESSIONAL BAIL AGENT LICENSE TO POST A QUALIFICATION BOND AND
10 TO DELETE CERTAIN PROVISIONS RELATING TO THE FORFEITURE OF
11 QUALIFICATION BONDS OF PROFESSIONAL BAIL AGENTS; TO REENACT
12 SECTION 83-39-13, MISSISSIPPI CODE OF 1972, WHICH REQUIRES
13 PROFESSIONAL BAIL AGENTS TO FILE AN ANNUAL FINANCIAL STATEMENT
14 WITH THE DEPARTMENT OF INSURANCE AND REQUIRES THE DEPARTMENT OF
15 INSURANCE TO ESTABLISH A BAIL BOND DATABASE; TO AMEND REENACTED
16 SECTION 83-39-13, MISSISSIPPI CODE OF 1972, TO REQUIRE INFORMATION
17 IN THE BAIL BOND DATABASE TO BE CONSIDERED RELIABLE AND ACCURATE
18 BEFORE SUCH INFORMATION MAY BE USED TO RESTRICT THE AMOUNT OF
19 BONDS A PROFESSIONAL BAIL AGENT MAY HAVE OUTSTANDING AT A GIVEN
20 TIME; TO AMEND SECTION 4, CHAPTER 446, LAWS OF 2016, TO EXTEND THE
21 DATE OF THE REPEALER ON THE REENACTED SECTIONS; AND FOR RELATED
22 PURPOSES.

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

24 **SECTION 1.** Section 83-39-3, Mississippi Code of 1972, is
25 reenacted as follows:

26 83-39-3. (1) No person shall act in the capacity of
27 professional bail agent, soliciting bail agent or bail enforcement
28 agent, as defined in Section 83-39-1, or perform any of the



29 functions, duties or powers of the same unless that person shall
30 be qualified and licensed as provided in this chapter. The terms
31 of this chapter shall not apply to any automobile club or
32 association, financial institution, insurance company or other
33 organization or association or their employees who execute bail
34 bonds on violations arising out of the use of a motor vehicle by
35 their members, policyholders or borrowers when bail bond is not
36 the principal benefit of membership, the policy of insurance or of
37 a loan to such member, policyholder or borrower.

38 (2) (a) No license shall be issued or renewed except in
39 compliance with this chapter, and none shall be issued except to
40 an individual. No firm, partnership, association or corporation,
41 as such, shall be so licensed. No professional bail agent shall
42 operate under more than one (1) trade name. A soliciting bail
43 agent and bail enforcement agent shall operate only under the
44 professional bail agent's name. No license shall be issued to or
45 renewed for any person who has ever been convicted of a crime that
46 the commissioner finds directly relates to the duties and
47 responsibilities of the business of a professional bail agent,
48 soliciting bail agent, or bail enforcement agent, including, but
49 not limited to, any felony that involves an act of fraud,
50 dishonesty, or a breach of trust, or money laundering. No license
51 shall be issued to any person who is under twenty-one (21) years
52 of age. No person engaged as a law enforcement or judicial
53 official or attorney shall be licensed hereunder. A person who is



54 employed in any capacity at any jail or corrections facility that
55 houses state, county or municipal inmates who are or may be
56 eligible for bail, whether the person is a public employee,
57 independent contractor, or the employee of an independent
58 contractor, may not be licensed under this section.

59 (b) (i) No person who is a relative of either a sworn
60 state, county or municipal law enforcement official or judicial
61 official, or an employee, independent contractor or the
62 contractor's employee of any police department, sheriff's
63 department, jail or corrections facility that houses or holds
64 federal, state, county or municipal inmates who are or may be
65 eligible for bail, shall write a bond in the county where the law
66 enforcement entity or court in which the person's relative serves
67 is located. "Relative" means a spouse, parent, grandparent,
68 child, sister, brother, or a consanguineous aunt, uncle, niece or
69 nephew. Violation of this prohibition shall result in license
70 revocation.

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

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

77 (3) The department is vested with the authority to enforce
78 this chapter. The department may conduct investigations or



79 request other state, county or local officials to conduct
80 investigations and promulgate such rules and regulations as may be
81 necessary for the enforcement of this chapter. The department may
82 establish monetary fines and collect such fines as necessary for
83 the enforcement of such rules and regulations. All fines
84 collected shall be deposited in the Special Insurance Department
85 Fund for the operation of that agency.

86 (4) (a) Each license issued hereunder shall expire
87 biennially on the last day of September of each odd-numbered year,
88 unless revoked or suspended prior thereto by the department, or
89 upon notice served upon the commissioner by the insurer that the
90 authority of a limited surety agent to act for or on behalf of
91 such insurer had been terminated, or upon notice served upon the
92 commissioner that the authority of a soliciting bail agent or bail
93 enforcement agent had been terminated by such professional bail
94 agent.

95 (b) A soliciting bail agent or bail enforcement agent
96 may, upon termination by a professional bail agent or upon his
97 cessation of employment with a professional bail agent, be
98 relicensed without having to comply with the provisions of
99 subsection (7)(a) and (b) of this section, if he has held a
100 license in his respective license category within ninety (90) days
101 of the new application, meets all other requirements set forth in
102 Section 83-39-5 and subsection (7)(b) of this section, and



103 notifies the previous professional bail agent in writing that he
104 is submitting an application for a new license.

105 (5) The department shall prepare and deliver to each
106 licensee a license showing the name, address and classification of
107 the licensee, and shall certify that the person is a licensed
108 professional bail agent, being designated as a personal surety
109 agent or a limited surety agent, a soliciting bail agent or a bail
110 enforcement agent. In addition, the license of a soliciting bail
111 agent or bail enforcement agent, shall show the name of the
112 professional bail agent and any other information as the
113 commissioner deems proper.

114 (6) The commissioner, after a hearing under Section
115 83-39-17, may refuse to issue a privilege license for a soliciting
116 bail agent to change from one (1) professional bail agent to
117 another if he owes any premium or debt to the professional bail
118 agent with whom he is currently licensed. The commissioner, after
119 a hearing under Section 83-39-17, shall refuse to issue a license
120 for a limited surety agent if he owes any premium or debt to an
121 insurer to which he has been appointed. If a license has been
122 granted to a limited surety agent or a soliciting bail agent who
123 owed any premium or debt to an insurer or professional bail agent,
124 the commissioner, after a hearing under Section 83-39-17, shall
125 revoke the license.

126 (7) (a) Before the issuance of any initial professional
127 bail agent, soliciting bail agent or bail enforcement agent



license, the applicant shall submit proof of successful completion of forty (40) hours of prelicensing education approved by the Mississippi Insurance Department unless the applicant is currently licensed under this chapter on July 1, 2014, and has maintained that license in compliance with the continuing education requirements of subsection (8) of this section. Any applicant who has met all continuing education requirements as set forth in subsection (8)(a) of this section and has been properly licensed under this chapter within ninety (90) days of submitting an application for a license shall not be subject to the prelicensing education requirement.

(b) All applicants for a professional bail agent, soliciting bail agent or bail enforcement agent license applying for an original license after July 1, 2014, shall successfully complete a limited examination by the department for the restricted lines of business before the license can be issued; however, this examination requirement shall not apply to any licensed bail soliciting agent and bail enforcement agent transferring to another professional bail agent license, any licensed bail soliciting agent applying for a bail enforcement agent license, and any licensed bail enforcement agent applying for a bail soliciting agent license. An applicant shall only be required to successfully complete the limited examination once.

(c) Beginning on July 1, 2011, in order to assist the department in determining an applicant's suitability for a license



under this chapter, the applicant shall submit a set of fingerprints with the submission of an application for license. The department shall forward the fingerprints to the Department of Public Safety for the purpose of conducting a criminal history record check. If no disqualifying record is identified at the state level, the Department of Public Safety shall forward the fingerprints to the Federal Bureau of Investigation for a national criminal history record check. Fees related to the criminal history record check shall be paid by the applicant to the commissioner and the monies from such fees shall be deposited in the special fund in the State Treasury designated as the "Insurance Department Fund."

(8) (a) Before the renewal of the license of any professional bail agent, soliciting bail agent or bail enforcement agent, the applicant shall submit proof of successful completion of continuing education hours as follows:

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

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

(b) If an applicant for renewal failed to obtain the required eight (8) hours for each year of the license period during the actual license year in which the education was required



to be obtained, the applicant shall not be eligible for a renewal license but shall be required to obtain an original license and be subject to the education requirements set forth in subsection (7). The commissioner shall not be required to comply with Section 83-39-17 in denying an application for a renewal license under this paragraph (b).

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

(d) The continuing education requirements under this subsection (8) shall not be required for renewal of a bail agent license for any applicant who is sixty-five (65) years of age and who has been licensed as a bail agent for a continuous period of twenty (20) years immediately preceding the submission of the application as evidenced by submission of an affidavit, under oath, on a form prescribed by the department, signed by the licensee attesting to satisfaction of the age, licensing, and experience requirements of this paragraph (d).

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

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



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

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

(11) On or before October 1, 2016, the Insurance Department shall establish a statewide Electronic Bondsmen Registry for all licenses, powers of appointment and powers of attorney requiring registration under this section. Once established, each professional bail agent, limited surety agent, bail soliciting agent, bail enforcement agent or insurance company writing bail bonds shall be required under this subsection (11) to register and maintain a record of each required license, power of appointment and power of attorney in the registry. Failure to comply with this provision will subject the agent to the penalties provided in Section 83-39-29.

(12) From and after July 1, 2016, the expenses of this agency shall be defrayed by appropriation from the State General Fund and all user charges and fees authorized under this section shall be deposited into the State General Fund as authorized by law.

(13) From and after July 1, 2016, no state agency shall charge another state agency a fee, assessment, rent or other charge for services or resources received by authority of this section.



227 **SECTION 2.** Section 83-39-7, Mississippi Code of 1972, is
228 reenacted and amended as follows:

229 83-39-7. (1) (a) Each applicant for a professional bail
230 agent license * * * shall be required to post a qualification bond
231 in the amount of Thirty Thousand Dollars (\$30,000.00) in order to
232 be qualified and licensed as required under this chapter to issue
233 bail bonds in the county where the principal place of business of
234 the applicant is located. The applicant shall identify the county
235 of the applicant's principal place of business in the license
236 application or license renewal application.

237 (b) Except as otherwise provided in paragraph (c), to
238 qualify to issue bail bonds outside the county of an applicant's
239 principal place of business, the applicant or licensee must post
240 an additional qualification bond of One Hundred Thousand Dollars
241 (\$100,000.00). However, an insurance company may not be required
242 to post qualification bonds totaling more than One Million Dollars
243 (\$1,000,000.00) in order for its professional bail agents to issue
244 bail bonds in multiple counties.

245 (c) A licensed professional bail agent with ten (10) or
246 more cumulative years of experience as a licensed Mississippi
247 soliciting bail agent or bail enforcement agent or professional
248 bail agent as of July 1, 2018, is not required to post an
249 additional qualification bond to issue bail bonds in multiple
250 counties. Any other professional bail agent issuing bonds in
251 multiple counties shall increase the amount of the qualification



bond to be posted by Twenty Thousand Dollars (\$20,000.00) upon
renewal of the agent's license until the total qualification bond
required for renewal of a license equals One Hundred Thirty
Thousand Dollars (\$130,000.00).

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

(2) The qualification bond shall be made by depositing with
the commissioner the aforesaid amount of bonds of the United
States, the State of Mississippi or any agency or subdivision
thereof, or a certificate of deposit issued by an institution
whose deposits are insured by the Federal Deposit Insurance
Corporation and made payable jointly to the owner and the
Department of Insurance, or shall be written by an insurer as
defined in this chapter, shall meet the specifications as may be



required and defined in this chapter, and shall meet such specifications as may be required and approved by the department. The bond shall be conditioned upon the full and prompt payment of any bail bond issued by such professional bail agent into the court ordering the bond forfeited. The bond shall be to the people of the State of Mississippi in favor of any court of this state, whether municipal, justice, county, circuit, Supreme or other court.

* * *

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

SECTION 3. Section 83-39-13, Mississippi Code of 1972, is reenacted and amended as follows:

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



301 (2) (a) For purposes of applicable examinations, a
302 professional bail agent licensed in this state shall maintain at
303 least one (1) office physically located in any municipality or
304 county in this state, to serve as his principal place of business
305 operations where records pertaining to his bail agent business
306 conducted in Mississippi are maintained and this office location
307 shall be registered with the Insurance Department.

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

313 (c) If for any reason the professional bail agent
314 changes the location of his principal place of business
315 operations, removes to another state, or no longer continues in
316 the profession as a bail agent, the bail agent shall register the
317 new location with the department, or notify the department of his
318 removal from the state or his cessation of business as a
319 professional bail agent as appropriate.

320 (3) On or before October 1, 2016, the Mississippi Insurance
321 Department shall establish a Bail Bond Database within the
322 department for the reporting of all bail bonds written by personal
323 surety agents and limited surety agents in this state. By
324 November 15, 2016, each bail agent must input his or her bail bond
325 information into the Bail Bond Database for all bonds written from



and after October 1, 2016. By the fifteenth day of each subsequent month, each bail agent must update the Bail Bond Database regarding his or her bail bond information for bail bonds written from and after October 1, 2016, and each update must be current through the last day of the previous month. Any bail agent who fails to comply with the provisions of this subsection (3) shall be assessed a fine in an amount not to exceed One Thousand Dollars (\$1,000.00) per violation.

(4) (a) Information in the Bail Bond Database may not be the basis for restrictions on the amount of bonds a professional bail agent may have outstanding at any given time until such time that the information in the database is reliable and accurate, as certified by the commissioner.

(b) Notwithstanding the provisions of paragraph (a) of this subsection, the Bail Bond Database will be considered reliable and accurate at such time that: all of the criminal courts of this state have access to and participate in a unified court filing system that allows those courts to reliably access and to accurately enter, correct or modify all necessary information into the Bail Bond Database; and professional bail agents have access to verify and modify their individual information in the Bail Bond Database.

SECTION 4. Section 4, Chapter 446, Laws of 2016, is amended as follows:



350 Section 4. This act shall take effect and be in force from
351 and after July 1, 2016, and shall stand repealed on July 1, * * *
352 2022.

353 **SECTION 5.** This act shall take effect and be in force from
354 and after July 1, 2018.

