

By: Representative Chism

To: Accountability,
Efficiency, Transparency

COMMITTEE SUBSTITUTE
FOR
HOUSE BILL NO. 1479

1 AN ACT TO REENACT SECTIONS 83-39-3, 83-39-7 AND 83-39-13,
2 MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR PROFESSIONAL BAIL
3 AGENT LICENSURE AND OTHER REQUIREMENTS; TO AMEND REENACTED SECTION
4 83-39-7, MISSISSIPPI CODE OF 1972, TO MAKE A MINOR, NONSUBSTANTIVE
5 CHANGE; TO AMEND SECTION 4, CHAPTER 446, LAWS OF 2016, TO DELETE
6 THE REPEALER FROM THE EFFECTIVE DATE LANGUAGE ON THE SECTIONS OF
7 LAW THAT PROVIDE FOR PROFESSIONAL BAIL AGENT LICENSURE AND OTHER
8 REQUIREMENTS; AND FOR RELATED PURPOSES.

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

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

12 83-39-3. (1) No person shall act in the capacity of
13 professional bail agent, soliciting bail agent or bail enforcement
14 agent, as defined in Section 83-39-1, or perform any of the
15 functions, duties or powers of the same unless that person shall
16 be qualified and licensed as provided in this chapter. The terms
17 of this chapter shall not apply to any automobile club or
18 association, financial institution, insurance company or other
19 organization or association or their employees who execute bail
20 bonds on violations arising out of the use of a motor vehicle by
21 their members, policyholders or borrowers when bail bond is not



22 the principal benefit of membership, the policy of insurance or of
23 a loan to such member, policyholder or borrower.

24 (2) (a) No license shall be issued or renewed except in
25 compliance with this chapter, and none shall be issued except to
26 an individual. No firm, partnership, association or corporation,
27 as such, shall be so licensed. No professional bail agent shall
28 operate under more than one (1) trade name. A soliciting bail
29 agent and bail enforcement agent shall operate only under the
30 professional bail agent's name. No license shall be issued to or
31 renewed for any person who has ever been convicted of a crime that
32 the commissioner finds directly relates to the duties and
33 responsibilities of the business of a professional bail agent,
34 soliciting bail agent, or bail enforcement agent, including, but
35 not limited to, any felony that involves an act of fraud,
36 dishonesty, or a breach of trust, or money laundering. No license
37 shall be issued to any person who is under twenty-one (21) years
38 of age. No person engaged as a law enforcement or judicial
39 official or attorney shall be licensed hereunder. A person who is
40 employed in any capacity at any jail or corrections facility that
41 houses state, county or municipal inmates who are or may be
42 eligible for bail, whether the person is a public employee,
43 independent contractor, or the employee of an independent
44 contractor, may not be licensed under this section.

45 (b) (i) No person who is a relative of either a sworn
46 state, county or municipal law enforcement official or judicial



47 official, or an employee, independent contractor or the
48 contractor's employee of any police department, sheriff's
49 department, jail or corrections facility that houses or holds
50 federal, state, county or municipal inmates who are or may be
51 eligible for bail, shall write a bond in the county where the law
52 enforcement entity or court in which the person's relative serves
53 is located. "Relative" means a spouse, parent, grandparent,
54 child, sister, brother, or a consanguineous aunt, uncle, niece or
55 nephew. Violation of this prohibition shall result in license
56 revocation.

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

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

63 (3) The department is vested with the authority to enforce
64 this chapter. The department may conduct investigations or
65 request other state, county or local officials to conduct
66 investigations and promulgate such rules and regulations as may be
67 necessary for the enforcement of this chapter. The department may
68 establish monetary fines and collect such fines as necessary for
69 the enforcement of such rules and regulations. All fines
70 collected shall be deposited in the Special Insurance Department
71 Fund for the operation of that agency.



72 (4) (a) Each license issued hereunder shall expire
73 biennially on the last day of September of each odd-numbered year,
74 unless revoked or suspended prior thereto by the department, or
75 upon notice served upon the commissioner by the insurer that the
76 authority of a limited surety agent to act for or on behalf of
77 such insurer had been terminated, or upon notice served upon the
78 commissioner that the authority of a soliciting bail agent or bail
79 enforcement agent had been terminated by such professional bail
80 agent.

81 (b) A soliciting bail agent or bail enforcement agent
82 may, upon termination by a professional bail agent or upon his
83 cessation of employment with a professional bail agent, be
84 relicensed without having to comply with the provisions of
85 subsection (7) (a) and (b) of this section, if he has held a
86 license in his respective license category within ninety (90) days
87 of the new application, meets all other requirements set forth in
88 Section 83-39-5 and subsection (7) (b) of this section, and
89 notifies the previous professional bail agent in writing that he
90 is submitting an application for a new license.

91 (5) The department shall prepare and deliver to each
92 licensee a license showing the name, address and classification of
93 the licensee, and shall certify that the person is a licensed
94 professional bail agent, being designated as a personal surety
95 agent or a limited surety agent, a soliciting bail agent or a bail
96 enforcement agent. In addition, the license of a soliciting bail



97 agent or bail enforcement agent, shall show the name of the
98 professional bail agent and any other information as the
99 commissioner deems proper.

100 (6) The commissioner, after a hearing under Section
101 83-39-17, may refuse to issue a privilege license for a soliciting
102 bail agent to change from one (1) professional bail agent to
103 another if he owes any premium or debt to the professional bail
104 agent with whom he is currently licensed. The commissioner, after
105 a hearing under Section 83-39-17, shall refuse to issue a license
106 for a limited surety agent if he owes any premium or debt to an
107 insurer to which he has been appointed. If a license has been
108 granted to a limited surety agent or a soliciting bail agent who
109 owed any premium or debt to an insurer or professional bail agent,
110 the commissioner, after a hearing under Section 83-39-17, shall
111 revoke the license.

112 (7) (a) Before the issuance of any initial professional
113 bail agent, soliciting bail agent or bail enforcement agent
114 license, the applicant shall submit proof of successful completion
115 of forty (40) hours of prelicensing education approved by the
116 Mississippi Insurance Department unless the applicant is currently
117 licensed under this chapter on July 1, 2014, and has maintained
118 that license in compliance with the continuing education
119 requirements of subsection (8) of this section. Any applicant who
120 has met all continuing education requirements as set forth in
121 subsection (8) (a) of this section and has been properly licensed



122 under this chapter within ninety (90) days of submitting an
123 application for a license shall not be subject to the prelicensing
124 education requirement.

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

137 (c) Beginning on July 1, 2011, in order to assist the
138 department in determining an applicant's suitability for a license
139 under this chapter, the applicant shall submit a set of
140 fingerprints with the submission of an application for license.
141 The department shall forward the fingerprints to the Department of
142 Public Safety for the purpose of conducting a criminal history
143 record check. If no disqualifying record is identified at the
144 state level, the Department of Public Safety shall forward the
145 fingerprints to the Federal Bureau of Investigation for a national
146 criminal history record check. Fees related to the criminal



147 history record check shall be paid by the applicant to the
148 commissioner and the monies from such fees shall be deposited in
149 the special fund in the State Treasury designated as the
150 "Insurance Department Fund."

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

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

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

161 (b) If an applicant for renewal failed to obtain the
162 required eight (8) hours for each year of the license period
163 during the actual license year in which the education was required
164 to be obtained, the applicant shall not be eligible for a renewal
165 license but shall be required to obtain an original license and be
166 subject to the education requirements set forth in subsection (7).
167 The commissioner shall not be required to comply with Section
168 83-39-17 in denying an application for a renewal license under
169 this paragraph (b).

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



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

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

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

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

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

193 (11) On or before October 1, 2016, the Insurance Department
194 shall establish a statewide Electronic Bondsmen Registry for all
195 licenses, powers of appointment and powers of attorney requiring
196 registration under this section. Once established, each



197 professional bail agent, limited surety agent, bail soliciting
198 agent, bail enforcement agent or insurance company writing bail
199 bonds shall be required under this subsection (11) to register and
200 maintain a record of each required license, power of appointment
201 and power of attorney in the registry. Failure to comply with
202 this provision will subject the agent to the penalties provided in
203 Section 83-39-29.

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

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

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

215 83-39-7. (1) (a) Each applicant for a professional bail
216 agent license who acts as personal surety shall be required to
217 post a qualification bond in the amount of Thirty Thousand Dollars
218 (\$30,000.00).

219 (b) The Insurance Department shall submit a report to
220 the Senate and House of Representatives Committees on
221 Accountability, Efficiency and Transparency that details the



222 amount of all bonds or undertakings that each bail bondsman has
223 written in this state on which the bail bondsman is absolutely or
224 conditionally liable since the Bail Bond Database was established
225 by the department. The report shall be submitted on or before
226 December 1, 2017. The report shall also include the number of
227 bail bondsmen who have failed to comply with the database
228 reporting requirements, if any, the technical issues that may have
229 occurred since the database was established and any suggested
230 legislation to ensure each bail bondsman's continued compliance
231 with the database reporting requirements.

232 (2) The qualification bond shall be made by depositing with
233 the commissioner the aforesaid amount of bonds of the United
234 States, the State of Mississippi or any agency or subdivision
235 thereof, or a certificate of deposit issued by an institution
236 whose deposits are insured by the Federal Deposit Insurance
237 Corporation and made payable jointly to the owner and the
238 Department of Insurance, or shall be written by an insurer as
239 defined in this chapter, shall meet the specifications as may be
240 required and defined in this chapter, and shall meet such
241 specifications as may be required and approved by the department.
242 The bond shall be conditioned upon the full and prompt payment of
243 any bail bond issued by such professional bail agent into the
244 court ordering the bond forfeited. The bond shall be to the
245 people of the State of Mississippi in favor of any court of this



246 state, whether municipal, justice, county, circuit, Supreme or
247 other court.

248 (3) If any bond issued by a professional bail agent is
249 declared forfeited and judgment entered thereon by a court of
250 proper jurisdiction as authorized in Section 99-5-25, and the
251 amount of the bond is not paid within ninety (90) days, that court
252 shall order the department to declare the qualification bond of
253 the professional bail agent to be forfeited and the license
254 revoked. If the bond was not forfeited correctly under Section
255 99-5-25, it shall be returned to the court as uncollectible. The
256 department shall then order the surety on the qualification bond
257 to deposit with the court an amount equal to the amount of the
258 bond issued by the professional bail agent and declared forfeited
259 by the court, or the amount of the qualification bond, whichever
260 is the smaller amount. The department shall, after hearing held
261 upon not less than ten (10) days' written notice, suspend the
262 license of the professional bail agent until such time as another
263 qualification bond in the required amount is posted with the
264 department. The revocation of the license of the professional
265 bail agent shall also serve to revoke the license of each
266 soliciting bail agent and bail enforcement agent employed or used
267 by such professional bail agent. In the event of a final judgment
268 of forfeiture of any bail bond written under the provisions of
269 this chapter, the amount of money so forfeited by the final
270 judgment of the proper court, less all accrued court costs and



271 excluding any interest charges or attorney's fees, shall be
272 refunded to the bail agent or his insurance company upon proper
273 showing to the court as to which is entitled to same, provided the
274 defendant in such cases is returned to the sheriff of the county
275 to which the original bail bond was returnable within * * *
276 eighteen (18) months of the date of such final judgment, or proof
277 made of incarceration of the defendant in another jurisdiction,
278 and that a "Hold Order" has been placed upon the defendant for
279 return of the defendant to the sheriff upon release from the other
280 jurisdiction, the return to the sheriff to be the responsibility
281 of the professional bail agent, then the bond forfeiture shall be
282 stayed and remission made upon petition to the court, in the
283 amount found in the court's discretion to be just and proper. A
284 bail agent licensed under this chapter shall have a right to apply
285 for and obtain from the proper court an extension of time delaying
286 a final judgment of forfeiture if such bail agent can
287 satisfactorily establish to the court wherein such forfeiture is
288 pending that the defendant named in the bail bond is lawfully in
289 custody outside of the State of Mississippi.

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



296 **SECTION 3.** Section 83-39-13, Mississippi Code of 1972, is
297 reenacted as follows:

298 83-39-13. (1) Each professional bail agent licensed under
299 this chapter, under oath, shall provide to the Insurance
300 Department an annual financial statement. The annual financial
301 statement shall show assets, liabilities and net worth as of the
302 end of the most recent calendar year. The statement shall be
303 submitted annually to the department by June 1.

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

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

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



321 removal from the state or his cessation of business as a
322 professional bail agent as appropriate.

323 (3) On or before October 1, 2016, the Mississippi Insurance
324 Department shall establish a Bail Bond Database within the
325 department for the reporting of all bail bonds written by personal
326 surety agents and limited surety agents in this state. By
327 November 15, 2016, each bail agent must input his or her bail bond
328 information into the Bail Bond Database for all bonds written from
329 and after October 1, 2016. By the fifteenth day of each
330 subsequent month, each bail agent must update the Bail Bond
331 Database regarding his or her bail bond information for bail bonds
332 written from and after October 1, 2016, and each update must be
333 current through the last day of the previous month. Any bail
334 agent who fails to comply with the provisions of this subsection
335 (3) shall be assessed a fine in an amount not to exceed One
336 Thousand Dollars (\$1,000.00) per violation.

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

339 Section 4. This act shall take effect and be in force from
340 and after July 1, 2016 * * *.

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

