

By: Senator(s) Carmichael

To: Insurance

SENATE BILL NO. 2468

1 AN ACT TO REENACT SECTIONS 83-39-3, 83-39-7 AND 83-39-13,
2 MISSISSIPPI CODE OF 1972, WHICH PROVIDE FOR THE LICENSING
3 REQUIREMENTS OF BAIL BONDSMEN; TO AMEND SECTION 4, CHAPTER 446,
4 LAWS OF 2016, TO REMOVE THE REPEALER ON THOSE SECTIONS; AND FOR
5 RELATED PURPOSES.

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

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

9 83-39-3. (1) No person shall act in the capacity of
10 professional bail agent, soliciting bail agent or bail enforcement
11 agent, as defined in Section 83-39-1, or perform any of the
12 functions, duties or powers of the same unless that person shall
13 be qualified and licensed as provided in this chapter. The terms
14 of this chapter shall not apply to any automobile club or
15 association, financial institution, insurance company or other
16 organization or association or their employees who execute bail
17 bonds on violations arising out of the use of a motor vehicle by
18 their members, policyholders or borrowers when bail bond is not



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

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

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



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

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

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

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



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

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

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



94 agent or bail enforcement agent, shall show the name of the
95 professional bail agent and any other information as the
96 commissioner deems proper.

97 (6) The commissioner, after a hearing under Section
98 83-39-17, may refuse to issue a privilege license for a soliciting
99 bail agent to change from one (1) professional bail agent to
100 another if he owes any premium or debt to the professional bail
101 agent with whom he is currently licensed. The commissioner, after
102 a hearing under Section 83-39-17, shall refuse to issue a license
103 for a limited surety agent if he owes any premium or debt to an
104 insurer to which he has been appointed. If a license has been
105 granted to a limited surety agent or a soliciting bail agent who
106 owed any premium or debt to an insurer or professional bail agent,
107 the commissioner, after a hearing under Section 83-39-17, shall
108 revoke the license.

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

SECTION 2. Section 83-39-7, Mississippi Code of 1972, is reenacted as follows:

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

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



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

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



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

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



268 excluding any interest charges or attorney's fees, shall be
269 refunded to the bail agent or his insurance company upon proper
270 showing to the court as to which is entitled to same, provided the
271 defendant in such cases is returned to the sheriff of the county
272 to which the original bail bond was returnable within twelve (12)
273 months of the date of such final judgment, or proof made of
274 incarceration of the defendant in another jurisdiction, and that a
275 "Hold Order" has been placed upon the defendant for return of the
276 defendant to the sheriff upon release from the other jurisdiction,
277 the return to the sheriff to be the responsibility of the
278 professional bail agent, then the bond forfeiture shall be stayed
279 and remission made upon petition to the court, in the amount found
280 in the court's discretion to be just and proper. A bail agent
281 licensed under this chapter shall have a right to apply for and
282 obtain from the proper court an extension of time delaying a final
283 judgment of forfeiture if such bail agent can satisfactorily
284 establish to the court wherein such forfeiture is pending that the
285 defendant named in the bail bond is lawfully in custody outside of
286 the State of Mississippi.

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



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

295 83-39-13. (1) Each professional bail agent licensed under
296 this chapter, under oath, shall provide to the Insurance
297 Department an annual financial statement. The annual financial
298 statement shall show assets, liabilities and net worth as of the
299 end of the most recent calendar year. The statement shall be
300 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



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

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

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

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

SECTION 6. This act shall take effect and be in force from and after July 1, 2018.

