

1 HB685
2 169496-1
3 By Representative Hill (M)
4 RFD: Judiciary
5 First Read: 19-MAY-15

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8 SYNOPSIS: Under existing law, a bail bondsman must be
9 approved as either a professional surety company or
10 professional bail company and be approved by the
11 presiding circuit judge of each county in which the
12 bail bondsman desires to operate.

13 This bill would create the Alabama Bail Bond
14 Regulatory Act to require professional bondsmen and
15 recovery agents to register with the Alabama
16 Professional Bail Bonding Board, created under the
17 act.

18 This bill would provide for the membership
19 and duties of the board, would provide procedures
20 for licensure applications, would specify
21 qualifications for licensure, and would provide
22 criminal penalties for making false statements to
23 the board.

24 This bill would also provide for the
25 suspension and revocation of licenses and would
26 require licensees to complete continuing
27 professional education.

1 Amendment 621 of the Constitution of Alabama
2 of 1901, now appearing as Section 111.05 of the
3 Official Recompilation of the Constitution of
4 Alabama of 1901, as amended, prohibits a general
5 law whose purpose or effect would be to require a
6 new or increased expenditure of local funds from
7 becoming effective with regard to a local
8 governmental entity without enactment by a 2/3 vote
9 unless: it comes within one of a number of
10 specified exceptions; it is approved by the
11 affected entity; or the Legislature appropriates
12 funds, or provides a local source of revenue, to
13 the entity for the purpose.

14 The purpose or effect of this bill would be
15 to require a new or increased expenditure of local
16 funds within the meaning of the amendment. However,
17 the bill does not require approval of a local
18 governmental entity or enactment by a 2/3 vote to
19 become effective because it comes within one of the
20 specified exceptions contained in the amendment.

21
22 A BILL

23 TO BE ENTITLED

24 AN ACT

25
26 Relating to bail bonds; to require professional
27 bondsmen and recovery agents to register with the Alabama

1 Professional Bail Bonding Board; to create the board; to
2 provide for the membership and duties of the board; to create
3 the Alabama Bail Bond Board Fund; to provide procedures for
4 licensure applications; to provide for qualifications for
5 licensure; to provide for criminal penalties for making false
6 statements to the board; to provide for the suspension and
7 revocation of licenses; to authorize civil penalties for
8 violations; to require the completion of continuing education;
9 and in connection therewith would have as its purpose or
10 effect the requirement of a new or increased expenditure of
11 local funds within the meaning of Amendment 621 of the
12 Constitution of Alabama of 1901, now appearing as Section
13 111.05 of the Official Recompilation of the Constitution of
14 Alabama of 1901, as amended.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. This act shall be known and may be cited
17 as the Alabama Bail Bond Regulatory Act.

18 Section 2. For the purposes of this act, the
19 following terms shall have the following meanings:

20 (1) BOARD. Alabama Professional Bail Bonding Board.

21 (2) PROFESSIONAL BONDSMAN. Any individual person who
22 is employed by a professional bail company to solicit and
23 execute appearance bonds or actively seek bail bond business
24 for or on behalf of a professional bail company, including any
25 individual who has a direct or indirect ownership interest in
26 a professional bail company.

1 (3) PROFESSIONAL SURETY BONDSMAN. Any individual
2 person who is employed by a professional surety company to
3 solicit and execute appearance bonds or actively seek bail
4 bond business for or on behalf of a professional surety
5 company, including any individual who has a direct or indirect
6 ownership interest in a professional surety company.

7 (4) RECOVERY AGENT. Any individual, other than an
8 attorney or law enforcement officer, utilized by a
9 professional surety company, professional bail company, or
10 professional bondsman to apprehend a defendant who was
11 released on bail and who failed to appear in court when
12 required.

13 Section 3. A person may not hold himself or herself
14 out to the public as a professional bondsman, or operate as a
15 recovery agent, or use any term, title, or abbreviation that
16 expresses, infers, or implies that the person is licensed as a
17 professional bondsman unless the person at the time holds a
18 valid license as professional bondsman as provided in this
19 act. All applicants shall pass an examination, unless exempted
20 by this act, based on criteria established by the Alabama
21 Professional Bail Bonding Board and established under Section
22 4 and shall comply with the continuing education requirements
23 established by this act.

24 Section 4. (a) There is created the Alabama
25 Professional Bail Bonding Board. The membership of the board
26 shall reflect the diversity of the state.

1 (b) Members of the board shall have had five years
2 of experience working with the professional bail bonding
3 industry, including experience as a law enforcement officer,
4 judge, attorney-at-law, court clerk, professional bondsman,
5 magistrate, lawmaker, or otherwise, prior to his or her
6 appointment.

7 (c) The following members shall be appointed to the
8 board:

9 (1) One person appointed by the Governor. The
10 Governor shall appoint the member to an initial term of three
11 years. Thereafter, successor members shall be appointed for
12 terms of four years each.

13 (2) Two persons appointed by the Speaker of the
14 House of Representatives for initial terms of two years.
15 Thereafter, successor members shall be appointed for terms of
16 four years.

17 (3) Two persons appointed by the Senate Pro Tem for
18 initial terms of four years. Thereafter, successor members
19 shall be appointed for terms of four years.

20 (d) Following the initial appointments, all
21 successor members of the board shall be appointed for a term
22 of four years and shall serve until their successors are
23 appointed and qualified by subscribing to the constitutional
24 oath of office, which shall be filed with the Secretary of
25 State.

1 (e) Any vacancy occurring on the board shall be
2 filled by the appointing authority of the vacating member for
3 the unexpired term.

4 (f) A member may not be appointed to succeed himself
5 or herself for more than three full terms.

6 (g) The appointing authority may remove a member of
7 the board for misconduct, incompetency, or willful neglect of
8 duty. The board may recommend to the appointing authority
9 suggested administrative actions that may be taken against a
10 board member for missing an excessive amount of meetings.

11 (h) Each member of the board shall receive a
12 certificate of appointment from the appointing authority
13 before entering upon the discharge of the duties of office.

14 (i) Members of the board shall receive compensation
15 for his or her service as a board member in the amount of five
16 hundred dollars (\$500) per month and such other reasonable and
17 necessary expenses incurred in the discharge of his or her
18 duties.

19 (j) The board shall be subject to the Alabama Sunset
20 Law, Chapter 20, Title 41, Code of Alabama 1975, as an
21 enumerated agency as provided in Section 41-20-3, Code of
22 Alabama 1975, and shall have a termination date of October 1,
23 2018, and every four years thereafter, unless continued
24 pursuant to the Alabama Sunset Law.

25 Section 5. (a) Absent unreasonable or reckless
26 conduct, the members and employees of the board are granted
27 immunity from civil liability and may not be liable for

1 damages when acting in the performance of their duties under
2 this act.

3 (b) Board members and employees shall be defended by
4 the Attorney General in regard to any civil litigation filed
5 against them based on the performance of their official duties
6 under this act.

7 Section 6. At the initial meeting of the board and
8 each time a new member is appointed to the board, the members
9 of the board shall select from among their members a president
10 to preside over meetings of the board and a vice president to
11 preside in the absence of the chair and a secretary.

12 Section 7. (a) There is hereby created in the State
13 Treasury for the use of the Alabama Professional Bail Bonding
14 Board a fund to be known as the Alabama Bail Bond Board Fund.

15 (b) All application and license fees, penalties,
16 fines, and any other fees or funds collected by the board
17 under this act are to be deposited in this fund and used only
18 to carry out the operations of the board, but funds in excess
19 of the amount needed to pay the reasonable and necessary
20 operating costs of the board shall be reported to the
21 Legislature on an annual basis and any excess funds may,
22 thereafter, be paid to the General Fund.

23 (c) For the purpose of carrying out the objectives
24 of this act and for the exercise of the powers granted in this
25 act, the Alabama Professional Bail Bonding Board may direct
26 the disbursement of the funds from the Alabama Bail Bond Board
27 Fund necessary to cover reasonable and necessary operating

1 costs and board member compensation and expenses as provided
2 by this act, which shall be paid on warrant of the Comptroller
3 upon certificate or voucher of the secretary of the board,
4 approved by the president or vice president of the board.
5 Funds may not be withdrawn or expended except as budgeted and
6 allotted according to the provisions of Article 4 of Chapter 4
7 of Title 41, Code of Alabama 1975.

8 Section 8. (a) The Alabama Professional Bail Bonding
9 Board may adopt rules necessary to implement this act and
10 accomplish its objectives subject to the Alabama
11 Administrative Procedure Act.

12 (b) The board may adopt and establish canons of
13 ethics and minimum acceptable professional standards of
14 practice for licensees within any rules that it adopts.

15 (c) The board may hire personnel necessary or as
16 advisable to carry out the purposes of this act. With the
17 exception of the Executive Director, all personnel shall be
18 subject to the provisions of the state Merit System Act.

19 (d) The Attorney General shall provide legal
20 services to the board and its employees in connection with
21 official duties and actions of the board.

22 Section 9. (a) The board shall establish regular and
23 special meetings for the purpose of transacting its business
24 as provided by rules adopted by the board. Notice of board
25 meetings shall comply with the Alabama Open Meetings Act.

26 (b) A majority of the board shall constitute a
27 quorum at any meeting of the board.

1 Section 10. (a) Except as otherwise provided in this
2 act, it shall be unlawful for any person to act as a
3 professional bondsman or recovery agent without first
4 obtaining a license from the board, but professional surety
5 bondsman shall obtain a license from the Department of
6 Insurance and shall comply with all licensing requirements
7 issued by the Department of Insurance.

8 (b) A violation of subsection (a) is a Class A
9 misdemeanor.

10 (c) Each person licensed in accordance with this act
11 shall designate to the board a physical address where his or
12 her records are to be kept.

13 Section 11. An application and all information on an
14 application for licensure as a professional bondsman shall be
15 treated as confidential and shall be filed with the board on
16 forms prescribed by the board. The application shall include
17 all of the following information of the applicant:

18 (1) His or her full name.

19 (2) His or her date of birth.

20 (3) All residences during the immediate past five
21 years.

22 (4) All employment or occupations engaged in during
23 the immediate past five years.

24 (5) A list of convictions and pending charges
25 involving a felony or misdemeanor in any jurisdiction.

26 Section 12. Each individual applicant shall meet all
27 of the following criteria, demonstrating that he or she:

1 (1) Is at least 21 years of age.

2 (2) Has not been declared by any court of competent
3 jurisdiction incompetent by reason of mental defect or disease
4 unless a court of competent jurisdiction has subsequently
5 declared the applicant competent.

6 (3) Has not been convicted of a crime of moral
7 turpitude, with the board having the final determination on
8 the interpretation of moral turpitude.

9 (4) Has not been convicted of a felony crime.

10 Section 13. (a) (1) If an application for a license
11 is denied, the board shall notify the applicant in writing and
12 specify the grounds for denial. If the grounds are subject to
13 correction by the applicant, the notice shall so state and
14 specify a reasonable period of time within which the applicant
15 shall make the required correction.

16 (2) The applicant may submit an application for
17 reconsideration to the board within 30 days from the date of
18 receipt of denial.

19 (b) The board shall issue a license to all licensees
20 that shall be at least 8" x 10" in size and shall be displayed
21 on a wall of the workplace of the licensee. This license shall
22 be deemed property of the state and subject to forfeiture to
23 the state upon revocation.

24 (c) All licenses issued or renewed under this act
25 shall be valid for a period from the date of issuance until
26 October 31.

1 Section 14. (a) The board shall issue to every
2 bondsman licensee an identification card, which shall be
3 issued in credit card size, be permanently laminated, and
4 contain the following information of the licensee:

5 (1) Name.

6 (2) Photograph.

7 (3) Bondsman's license number.

8 (4) Expiration date of license.

9 (b) The identification card shall be carried on the
10 person of the licensee when engaged in the activities of the
11 licensee.

12 Section 15. Making a false statement to the board
13 shall be punishable by a civil penalty not to exceed one
14 thousand dollars (\$1,000) and assessment of the maximum
15 application fee.

16 Section 16. (a) The board may suspend, revoke, or
17 refuse to issue or renew any license issued by it upon finding
18 that the holder or applicant has committed any of the
19 following acts:

20 (1) A violation of this act or any rule promulgated
21 pursuant to this act.

22 (2) Fraud, deceit, or misrepresentation regarding an
23 application or license.

24 (3) Knowingly and willfully making a material
25 misstatement in connection with an application for a license
26 or renewal.

1 (4) A conviction by a court of competent
2 jurisdiction of a felony.

3 (5) A conviction by a court of competent
4 jurisdiction of a Class A misdemeanor, if the board finds that
5 the conviction reflects unfavorably on the fitness of the
6 person for the license.

7 (6) The commission of any act which would have been
8 cause for refusal to issue the license or identification card
9 had it existed and been known to the board at the time of
10 issuance.

11 (b) A license may be suspended for the remaining
12 license period and renewed during any period in which the
13 license was suspended.

14 Section 17. A licensee may not be required to obtain
15 any authorization of license, or pay any other license fee or
16 tax, in any municipality, county, or other political
17 subdivision of this state to engage in any activity regulated
18 under this act.

19 Section 18. The Administrative Procedure Act shall
20 govern all matters and procedures respecting the hearing and
21 judicial overview of any contested case.

22 Section 19. (a) A professional bondsman or recovery
23 agent commencing business in any judicial circuit in this
24 state on and after January 1, 2016, shall attend a 12-hour
25 instructional course conducted by an educational provider
26 approved by the board and pass an examination approved by the
27 board and administered by an educational provider approved by

1 the board. Upon completion of the course and passage of the
2 examination, the person shall be awarded an initial
3 examination certificate by the board, copies of which may be
4 submitted to the presiding circuit judge, or other judicial
5 authority, along with the other requirements set forth in
6 Section 15-13-159 or 15-13-160, Code of Alabama 1975. Those
7 professional bondsmen and recovery agents doing business
8 immediately prior to January 1, 2016, are exempt from the
9 initial 12-hour course and examination.

10 (b) A professional bondsman or recovery agent making
11 an annual filing in any circuit in this state pursuant to
12 Section 15-13-159 or 15-13-160, Code of Alabama 1975, on and
13 after six months of the effective date of this act shall first
14 complete eight hours of continuing education conducted by an
15 educational provider approved by the board. The educational
16 provider approved by the board shall provide the board with
17 the name of all professional bondsmen or recovery agents
18 completing eight hours of continuing education. Upon
19 completion of the eight hours of continuing education, the
20 person shall request issuance of an annual continuing
21 education certificate from the board, copies of which may be
22 submitted to the presiding circuit judge along with the other
23 requirements set forth in Section 15-13-159 or 15-13-160, Code
24 of Alabama 1975.

25 (c) The 12-hour instructional course, examination,
26 or continuing education courses shall be taught or sponsored
27 by an educational provider approved by the board, which must

1 apply annually for authority to offer such examination or
2 courses.

3 (d) A list of approved course providers will be
4 published on the board website.

5 (e) The cost of the 12-hour course shall be set by
6 the approved course provider but shall not exceed five hundred
7 dollars (\$500) per course. Upon completion of the 12-hour
8 course, the approved course provider shall issue a 12-hour
9 course completion certificate in a form approved by the board.
10 This completion certificate must be presented to the board in
11 order to take the introductory examination. A 12-hour course
12 completion certificate shall be valid for a period of 12
13 months.

14 (f) The cost of continuing education courses shall
15 be set by the approved course provider but shall not exceed
16 seventy-five dollars (\$75) per hour. Any fee required to be
17 paid by a course provider for reporting continuing education
18 course completion to the board may be added to the maximum
19 charges provided in this subsection.

20 (g) Each professional bondsman and recovery agent
21 must renew his or her certification with the board by
22 completing the eight hours of approved continuing education
23 prior to November 1 each year. Late renewal within the next 12
24 months may be had by completing the eight hours of continuing
25 education and paying a renewal license fee of twice the amount
26 otherwise required. If a professional bondsman or recovery
27 agent fails to renew a certification for a 12-month period,

1 the professional bondsman or recovery agent will be required
2 to take the initial 12-hour course and examination to again
3 become certified.

4 (h) The board shall set the fees to be paid to the
5 board in the administration of this section, not to exceed the
6 amounts set forth below:

7 (1) Examination fee, a nonrefundable fee to be paid
8 to take the examination and for the issuance of the initial
9 examination certificate, per examination attempt: \$125.

10 (2) Annual continuing education renewal certificate
11 fee, to be paid to receive the annual continuing education
12 certificate: \$50.

13 (i) The board shall adopt rules necessary to carry
14 out this section.

15 Section 20. No criminal or civil action taken under
16 this act precludes a prosecution or action under any other law
17 of this state.

18 Section 21. Although this bill would have as its
19 purpose or effect the requirement of a new or increased
20 expenditure of local funds, the bill is excluded from further
21 requirements and application under Amendment 621, now
22 appearing as Section 111.05 of the Official Recompilation of
23 the Constitution of Alabama of 1901, as amended, because the
24 bill defines a new crime or amends the definition of an
25 existing crime.

1 Section 22. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.