

1 SB349
2 166866-3
3 By Senator Holley
4 RFD: Governmental Affairs
5 First Read: 09-APR-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 revise certain provisions
14 governing those acting as a professional bail
15 agent, a soliciting bail agent, a bail enforcement
16 agent, or a professional bondsman.

17 This bill would require a bail enforcement
18 agency to report to the sheriff of the county in
19 which he or she is attempting to locate a fugitive,
20 would revise the procedures and time frames for the
21 forfeiture of bail, and would revise provisions
22 governing professional surety companies.

23 This bill would also revise the bond
24 requirements of professional bail companies to
25 allow these companies to place cash deposits with
26 the Commissioner of Insurance, and would require

1 professional bail companies to be licensed by the
2 Commissioner of Insurance.

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

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

23
24 A BILL
25 TO BE ENTITLED
26 AN ACT
27

1 Relating to bail bonds; to amend Sections 15-13-101,
2 15-13-117, 15-13-129, 15-13-131, 15-13-132, 15-13-138,
3 15-13-139, 15-13-141, 15-13-159, and 15-13-160, Code of
4 Alabama 1975, to revise certain provisions governing those
5 acting as a professional bail agent, a soliciting bail agent,
6 a bail enforcement agent, or a professional bondsman; to
7 require a bail enforcement agency to report to the sheriff of
8 the county under certain conditions; to revise the procedures
9 and time frames for the forfeiture of bail; to revise
10 provisions governing professional surety companies; to provide
11 criminal penalties; to revise the bond requirements of
12 professional bail companies; to require professional bail
13 companies to be licensed by the Commissioner of Insurance; and
14 in connection therewith would have as its purpose or effect
15 the requirement of a new or increased expenditure of local
16 funds within the meaning of Amendment 621 of the Constitution
17 of Alabama of 1901, now appearing as Section 111.05 of the
18 Official Recompilation of the Constitution of Alabama of 1901,
19 as amended.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. Sections 15-13-101, 15-13-117, 15-13-129,
22 15-13-131, 15-13-132, 15-13-138, 15-13-139, 15-13-141,
23 15-13-159, and 15-13-160, Code of Alabama 1975, are amended to
24 read as follows:

25 "§15-13-101.

1 "As used in this article, the following terms shall
2 have the following meanings, respectively, unless the context
3 clearly indicates otherwise.

4 "(1) APPEARANCE BOND. An appearance bond is an
5 undertaking to pay the clerk of the circuit, district, or
6 municipal court, for the use of the State of Alabama or the
7 municipality, a specified sum of money upon the failure of a
8 person released to comply with its conditions.

9 "(2) BAIL ENFORCEMENT AGENT. A person who assists
10 the professional bail company or professional surety company
11 in presenting the defendant in court when required, or who
12 assists in the apprehension and surrender of the defendant to
13 the court or who keeps the defendant under necessary
14 surveillance. Nothing in this definition affects the right of
15 professional bail agents to have counsel or to ask assistance
16 of law enforcement officers.

17 "~~(2)~~ (3) JUDICIAL OFFICER. Any supreme court,
18 appellate court, circuit court, district court, or municipal
19 court judge or any magistrate of any court in this state.

20 "~~(3)~~ (4) PROFESSIONAL BAIL COMPANY. A person,
21 individual proprietor, partnership, corporation, or other
22 entity, other than a professional surety company, that
23 furnishes bail or becomes surety for a person on an appearance
24 bond and does so for a valuable consideration.

25 "~~(4)~~ (5) PROFESSIONAL BONDSMAN. An individual person
26 or agent employed by a professional surety company or
27 professional bail company to solicit and execute appearance

1 bonds or actively seek bail bond business for or on behalf of
2 a professional surety company or a professional bail company.

3 "~~(5)~~ (6) PROFESSIONAL SURETY COMPANY. An insurance
4 company, domestic or foreign corporation, or association
5 engaged in the business of insurance, or a surety with a bail
6 line of insurance to which has been issued a certificate of
7 authority or certificate of compliance by the Alabama
8 Department of Insurance to execute appearance bonds or bail
9 bonds in criminal cases in the State of Alabama.

10 "§15-13-117.

11 "The sureties of bail may, at any time before a
12 conditional forfeiture is entered against them, exonerate
13 themselves by surrendering the defendant to the jail having
14 the authority of keeping custody of prisoners of the court
15 having jurisdiction of defendant's case. For that purpose, the
16 surety or his or her agent may arrest the defendant on a
17 bondsman's warrant at any place in the state, or may authorize
18 another ~~person~~ licensed professional bondsman or bail recovery
19 agent to arrest the defendant by an endorsement in writing on
20 the warrant. The bondsman's warrant shall be issued as
21 required by this chapter and a certified copy of the
22 undertaking shall be attached thereto.

23 "§15-13-129.

24 "(a) All bondsmen or sureties from out of the State
25 of Alabama who come to this state to make an arrest shall be
26 exempt from having a bondsman's process to arrest a person for
27 which he or she is a surety on bail in another state; but he

1 or she shall have a certified copy of the undertaking of bail
2 for which he or she is surety. His or her right to arrest
3 shall otherwise be in conformity with the common law.

4 "(b) A bail agent, bail enforcement agent, or bail
5 enforcement agent from another state shall report to the
6 sheriff of the county in which he or she is attempting to
7 locate a fugitive prior to searching for the fugitive in order
8 to confirm his or her licensure status and legal right to
9 retain the fugitive. Failure to prove licensing shall be a
10 violation, punishable by a fine not to exceed one thousand
11 dollars (\$1,000).

12 "§15-13-131.

13 "(a) (1) When a defendant fails to appear in court as
14 required by the undertaking of bail and no sufficient excuse
15 has been provided to the court prior to the hearing, the court
16 shall order a conditional forfeiture and show cause order
17 against the defendant and the sureties of the bail. The court
18 shall notify defendant and sureties of the order as set out in
19 this article. The defendant or sureties, or both, shall file a
20 written response with the clerk of the court within ~~28~~ 180
21 days of the date of ~~service~~ receipt of the notice why the bond
22 should not be forfeited.

23 "(2) The judgment nisi shall be returnable for 180
24 days from the date of issuance. If during that period the
25 defendant appears before the court, is arrested, or
26 surrenders, the judgment nisi shall be set aside.

1 "3) If a written response is filed within the time
2 allowed and the court is of the opinion the written response
3 is sufficient, the court shall set aside the conditional
4 forfeiture. If the court is of the opinion the written
5 response is not sufficient, the court shall set a hearing to
6 determine whether the bond should be forfeited. The hearing
7 shall not be set less than ~~90~~ 180 days of the service of the
8 conditional forfeiture order. If no written response has been
9 filed after ~~28~~ 180 days from the date of service of the
10 notice, the court may enter an appropriate order or final
11 judgment forfeiting all or part of the amount of the bond
12 which shall be enforceable as any civil judgment. The court
13 may take into consideration the circumstances provided to the
14 court and continue any final forfeiture hearing to another day
15 and time allowing the sureties more time to apprehend the
16 defendant.

17 "4) If a final judgment is entered against a surety
18 licensed by the Department of Insurance and has not been set
19 aside after 30 days, or later if such time is extended by the
20 court issuing the judgment nisi, the court shall order the
21 department to revoke the authority of the surety to write bail
22 bonds.

23 "5) The commissioner, upon notice of the court,
24 shall notify the surety within five working days of receipt of
25 revocation. If after 10 working days of the notification, the
26 revocation order has not been set aside by the court, the
27 commissioner shall revoke the authority of the surety and all

1 agents of the surety and shall notify the sheriff and the
2 court of every county of the revocation.

3 "(6) A professional bail company shall remit to the
4 court the amount of bail forfeited to court from cash deposits
5 from the company. The professional bail company must replace
6 funds within 30 days from the date of the original notice by
7 the commissioner or will no longer be eligible to hold a
8 license.

9 "(7) All monies received on payment of final
10 forfeitures shall be held in the accounts of the municipal or
11 county courts for 180 days prior to remitting to the General
12 Fund.

13 "(b) When an undertaking of bail is forfeited by the
14 failure of the defendant to appear as required, except when
15 money is deposited as cash bail, a conditional judgment shall
16 be rendered by the court in favor of the state or its subdivi-
17 sions, for the use of the proper city, county, or state,
18 against the parties to the undertaking for the sum thereon
19 expressed, which judgment may be substantially as follows:

20 (State of or City of)

Charge: _____

21 vs

Case No. _____

22 A.B. _____

23 C.D. _____

24 E.F. (Sureties) _____

1 "It being known to the court that A.B., together
2 with (Sureties) _____ , agreed to pay the State of Alabama (or
3 City of _____,) _____ dollars (the sum specified in the
4 undertaking), unless A.B. appeared at the time and place
5 mentioned and fixed in the bond or undertaking to answer in
6 this case and A.B. having failed to appear at the time and
7 place mentioned in the bond or undertaking, it is therefore
8 ordered by the court that the State of Alabama (or City of
9 _____,) for the use of _____ State (or City), recover of the
10 defendant and sureties on the undertakings, the sum of _____
11 dollars (the sum specified in the undertaking), unless they
12 file a written response and show cause why this judgment
13 should not be made absolute within 28 days of the date of
14 service of this conditional forfeiture order.

15 "(c) The state shall remit one-half of the funds it
16 receives under subsections (a) and (b) to the county in which
17 the defendant was charged. The funds shall be deposited into
18 the general fund of the county and used for the maintenance
19 and operation of the county jail.

20 "§15-13-132.

21 "A notice of the rendition of the judgment set forth
22 in Section 15-13-131 shall be issued by the clerk of the court
23 and served according to the terms as established in this arti-
24 cle within 90 days of the court's conditional forfeiture order
25 to the defendant and sureties. The notice may be in the fol-
26 lowing form:

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STATE OF ALABAMA
(or City of _____)

Defendant

vs

_____ County

Surety

Case No. _____

Surety

Charge: _____

Conditional Forfeiture Notice

To: _____

_____ Court

Defendant

Surety

"You are hereby notified that your name appears as a
surety on the bond in the above styled case. This case was

1 called for trial on _____ (date) and the defendant was not
2 present to answer. Therefore, a conditional forfeiture of
3 _____ dollars was entered against you.

4 "You ~~shall~~ may file a written response within ~~28~~ 180
5 days after you receive this notice and show cause to the court
6 why this bond amount and the court cost incident to this
7 forfeiture should not be made final.

8 "If no action on your part is taken ~~28~~ 180 days
9 after the date you receive this notice, a final forfeiture may
10 be entered against you by the court. The sheriff shall collect
11 the amount of the bond and court cost from you or levy on your
12 property to satisfy the forfeiture case. If you file a written
13 response and the court is of the opinion your written response
14 is not sufficient to set aside the conditional forfeiture,
15 then the court shall set a final forfeiture hearing date and
16 you will be notified at the address provided on the response.

17 "This bond forfeiture is a court case against you
18 separate from the defendant's criminal case. The court has
19 also ordered that the defendant be re-arrested in the original
20 case.

21 Date issued: _____

By _____

22 Clerk

23 "\$15-13-138.

1 "The court shall set aside the conditional
2 forfeiture in its entirety for the following reasons or under
3 the following circumstances:

4 "(1) If the sureties can show that the defendant was
5 hospitalized at the time he or she was to appear in court, or
6 if the sureties can produce sufficient evidence that the
7 defendant was not able to attend court for reason of illness,
8 by producing a doctor's certificate or letter to that effect.
9 The hospitalization may be in or out of the State of Alabama.
10 For the sureties to take advantage of this provision, they
11 shall put the court on notice that the situation exists either
12 prior to the issuance of the conditional forfeiture order or
13 within ~~28~~ 180 days after legal service of the conditional
14 forfeiture on the sureties. After receiving notice, the court
15 may continue the case to a future date it deems proper and
16 just for the defendant to appear. If at that time the
17 defendant is still not able to attend court for the same
18 reason, then it shall be the burden of the sureties to produce
19 the evidence within the same prescribed time. This section
20 shall not bar the court from the issuance of a bench warrant
21 for the defendant in cases where the court feels that
22 documents of proof do not reflect the truth, or where the
23 court has reason to believe the defendant may appear and he or
24 she is using such as an excuse to avoid appearance.

25 "(2) If the sureties show that the defendant was
26 confined in jail or in the custody of another jurisdiction in
27 the State of Alabama or any other state, at the time of his or

1 her original appearance or on the date of the issuance of the
2 conditional forfeiture order, or if the surety shows that the
3 defendant is still confined in any jail in the State of
4 Alabama or any other state, or in the custody of another
5 jurisdiction within the State of Alabama or any other state,
6 or in the custody of another jurisdiction within the
7 continental United States, including United States federal
8 jurisdiction, the court shall set aside the conditional
9 forfeiture and continue the case until a time after the end of
10 that confinement. If the court later learns that the defendant
11 is free from confinement before the confinement was supposed
12 to end, then the court, with notice to the sureties, may reset
13 the case and the burden shall be on the sureties to produce
14 the defendant for the hearing or the court may issue another
15 conditional forfeiture.

16 "(3) If the sureties show the defendant is deceased.

17 "(4) If the sureties show the defendant was serving
18 on active duty in one of the military services of the United
19 States.

20 "§15-13-139.

21 "In forfeiture cases where the sureties have paid
22 the amount of the forfeiture into the court or in cases where
23 the forfeiture has been made final or absolute and there is no
24 further litigation pending on the forfeiture, and the surety
25 locates the defendant and causes the return of the defendant
26 to the custody of the court where the bond was forfeited, and
27 if the defendant was substantially procured by actions of the

1 surety, and the administration of justice has not been
2 thwarted nor the successful prosecution of the defendant has
3 been affected, then the court which ordered the forfeiture,
4 shall have full power and jurisdiction in all proceedings
5 conducted pursuant to this article and within a period of six
6 months from the date of issuance of any final forfeiture
7 judgment, to consider any costs to the state or its
8 subdivisions which resulted as a cause of the default, if any,
9 and upon giving consideration thereto, ~~may, in the court's~~
10 ~~discretion,~~ shall remit the whole of the penalty of the bail,
11 or undertaking, or any portion thereof, which is in excess of
12 any costs to the state or its subdivisions, and render a new
13 final judgment against the sureties appearing upon the bail
14 bond or undertaking. In forfeiture cases, if the judgment has
15 been paid into the State or Municipal Treasury, the court ~~may~~
16 shall issue an order to the custodian of the treasury to make
17 a refund to the sureties.

18 "§15-13-141.

19 "In all cases where a conditional forfeiture has
20 been made final by any court of the state or any of its
21 subdivisions and there has been no further action or request
22 filed with the court, appeal taken, application to the State
23 Pardons and Paroles Board, or any other litigation of which
24 the court has knowledge has been filed by the surety with the
25 court within 30 days of the entry or order of the final
26 judgment and the same has not been paid to the clerk of the
27 court, then the clerk shall refuse to accept and approve any

1 bonds from the surety as being insufficient. The clerk shall
2 notify all persons authorized to accept and approve bonds
3 returnable to the court of the action and they shall no longer
4 accept or approve surety on bonds until notified otherwise by
5 the clerk. The clerk shall also notify the circuit clerk of
6 the county who shall notify all other clerks of any courts in
7 the county in writing and the clerks shall refuse to accept or
8 approve any other bonds of the surety and shall notify the
9 other authorized persons having the authority to approve and
10 accept bail returnable to their courts of the action and they
11 shall no longer accept or approve the surety on bail until
12 otherwise notified by the clerk. The clerk shall also notify
13 the Commissioner of Insurance who shall suspend the surety's
14 license and notify all courts in the state of the suspension.
15 Refusal by the clerks shall be in writing and shall be known
16 as a "clerk's revocation of surety."

17 "§15-13-159.

18 "(a) No professional surety company shall execute or
19 become surety on any appearance bond in this state, unless it
20 has an order granting authorization to become professional
21 surety on any bail. The order granting the authorization shall
22 be reissued annually, prior to January 1 of each year, by the
23 presiding circuit judge of the county in which the company
24 desires to execute bail or appearance bonds. Prior to the
25 judge's issuance of the original order and no later than
26 December 1 of each year, thereafter, professional surety

1 companies shall submit annually to the presiding circuit judge
2 the following:

3 "(1) An original or certified copy of a certificate
4 of authority or certificate of compliance from the Department
5 of Insurance reflecting that the company is qualified to write
6 a bail line of insurance and that the company is in good
7 standing with the department.

8 "(2) An original qualifying power of attorney issued
9 by the professional surety company, specifying any applicable
10 limitations and the names of the agents that may execute and
11 bind the company to a bail undertaking. The qualifying power
12 of attorney shall not name any company, corporation, or other
13 entity as an agent except a person as defined as a
14 professional bondsman in Division 1, Section 15-13-100 of this
15 chapter, and that person shall be an agent of the company
16 licensed with the Department of Insurance.

17 "(3) A copy of the license issued by the Department
18 of Insurance of each agent who is named in or appointed by the
19 qualifying power of attorney in subdivision (2) or a letter or
20 other documentation from the department indicating that the
21 appointed agents are temporarily licensed as agents of the
22 professional surety company for those lines of insurance.

23 "(4) An affidavit or certification in writing, under
24 oath, executed by a licensed agent of the professional surety
25 company who is the manager or an owner or president of a
26 corporation, company, partnership, or other entity that
27 represents the professional surety company, filed with the

1 clerk of the circuit court of each county in which the
2 professional surety company executes or becomes surety on
3 appearance bonds, stating the following:

4 "a. That all appearance bonds shall be executed in
5 the name of the professional surety company as surety by the
6 agents listed or appointed in the qualifying power of attorney
7 presented to the court or any other qualifying powers of
8 attorney filed with the circuit clerk of the county.

9 "b. That all agents listed or appointed in the
10 qualifying powers of attorney shall be licensed by the
11 Department of Insurance, prior to their appointments.

12 "c. That any agency, company, corporation, or other
13 entity that represents the professional surety company in the
14 county, has no owners or other persons having a direct or
15 indirect financial interest in such agency, company,
16 corporation, or other entity, that have been convicted of a
17 felony or a crime involving moral turpitude. If any person
18 having a direct or indirect financial interest in such agency,
19 company, corporation, or other entity has been convicted of a
20 felony or a crime involving moral turpitude, then the
21 affidavit or certification shall certify that there has been
22 such conviction, providing the name of the person convicted,
23 and certify that the person convicted has been pardoned or has
24 had a restoration of civil rights.

25 "d. That the professional surety company has no
26 knowledge of forfeitures that have been final for more than 30
27 days that have not been paid arising out of surety

1 undertaking, and that the professional surety company has no
2 petitions, motions, or other litigation matters pending.

3 "e. That no agents of the professional surety
4 company who have the authority to execute appearance bonds in
5 its behalf or any person having a financial interest, direct
6 or indirect, in the ownership or management of any agency,
7 company, corporation, or other entity that represents the
8 professional surety company in the execution of appearance
9 bonds, is an attorney, a judicial official, a person
10 authorized to accept an appearance bond, or an agent of an
11 attorney, judicial official, or person authorized to accept an
12 appearance bond.

13 "f. The names and addresses of all persons,
14 officers, employees, and agents of the agency, company,
15 corporation, or other entity that represents the professional
16 surety company becoming surety on appearance bonds who have a
17 direct or indirect financial interest in the agency, company,
18 corporation, or other entity representing the professional
19 surety company and the nature and extent of each interest.

20 "g. That those persons stated in this section have
21 not, within a period of two years, violated any provisions of
22 this chapter or any rules adopted by the Supreme Court of
23 Alabama in accordance with this chapter.

24 "(b) (1) Sureties on criminal bonds in any court may
25 not charge less than 10 percent or receive more than 15
26 percent of the principal amount of bonds set in the amount of
27 ten thousand dollars (\$10,000) or less and may not charge less

1 than 10 percent, or one hundred dollars (\$100), whichever is
2 greater, or receive more than 15 percent of the principal
3 amount of bonds set in an amount in excess of ten thousand
4 dollars (\$10,000) as compensation from defendants or from
5 anyone acting for defendants.

6 "(2) A person in violation of this subsection is
7 guilty of a Class B misdemeanor.

8 "§15-13-160.

9 "No professional bail company shall execute or
10 become surety on any appearance bond in this state, unless it
11 has an order granting authorization to become professional
12 surety on any bail. The order granting authorization shall be
13 reissued annually prior to January 1 of each year by the
14 presiding circuit judge of the county in which the company
15 desires to execute bail or appearance bonds. Prior to the
16 judge's issuance of the original order and no later than
17 December 1 of each year, thereafter, professional bail
18 companies shall submit annually to the presiding circuit judge
19 the following:

20 ~~(1) An original corporate surety bond or escrow~~
21 ~~agreement, filed and approved by the presiding circuit judge~~
22 ~~of the~~ A cash deposit shall be placed on deposit with the
23 Commissioner of Insurance for each county in which the
24 professional bail company having been qualified to execute
25 bail prior to the effective date of the act adding this
26 amendatory language, except for a company actively engaged in
27 the bail bond business for at least five years prior to the

1 effective date of this act, executes or becomes surety on
2 appearance bonds, in the amount of \$~~25,000~~ twenty-five
3 thousand dollars (\$25,000), guaranteeing the payment of all
4 sums of money that may become due by virtue of any judgment
5 absolute that may be rendered against the professional bail
6 company on a forfeiture entered by any court in the county.
7 ~~Corporate surety bonds shall be executed only by a surety~~
8 ~~company authorized to do business in the State of Alabama and~~
9 ~~qualified to write bonds by the Department of Insurance. The~~
10 ~~corporate surety bond shall provide that it may be cancelled~~
11 ~~as to any future liability by the corporate surety company or~~
12 ~~the professional bail company giving 30 days prior written~~
13 ~~notice of the cancellation to the clerk of the circuit court~~
14 ~~in which the bond or instrument was filed. A bank in the State~~
15 ~~of Alabama shall be a party to all escrow agreements, and~~
16 ~~those agreements shall provide that the agreement may be~~
17 ~~cancelled as to any future liability only by the professional~~
18 ~~bail company and bank giving 30 days prior written notice of~~
19 ~~the cancellation to the clerk of the circuit court in which~~
20 ~~the escrow agreement or instrument is filed. Once a~~
21 ~~professional bail company has filed an original continuous~~
22 ~~corporate surety bond or escrow agreement with the circuit~~
23 ~~clerk and it has been approved by the presiding circuit judge,~~
24 ~~then the professional bail company does not have to file any~~
25 ~~other original continuous corporate surety bond or escrow~~
26 ~~agreement upon annual recertification. The professional bail~~
27 ~~company shall submit an original certificate from the~~

1 ~~insurance company which executed the corporate surety bond~~
2 ~~reflecting that it is still in force or an original letter~~
3 ~~from the bank stating the escrow agreement is still effective~~
4 ~~and the moneys are still held in trust. When any professional~~
5 ~~bail company is annually recertifying, the circuit clerk shall~~
6 ~~send the original corporate surety bond or original escrow~~
7 ~~agreement with any cancellations received by the circuit clerk~~
8 ~~to the presiding circuit judge for review and approval On or~~
9 ~~after the effective date of the act adding this amendatory~~
10 ~~language, the amount placed in deposit shall be one hundred~~
11 ~~thousand dollars (\$100,000).~~

12 "(2) An original qualifying power of attorney,
13 letter, or other document issued by the professional bail
14 company specifying any applicable limitations and specifying
15 the agents who are authorized to execute and bind the
16 professional bail company to a bail undertaking or to
17 appearance bonds. The qualifying power of attorney, letter, or
18 other document may only name persons as agents. The qualifying
19 power of attorney may not name any company, corporation, or
20 other entity as an agent, except a bail bondsman as defined in
21 this chapter and that person shall be an agent of the company
22 licensed with the Department of Insurance.

23 "(3) An original affidavit or certificate in
24 writing, under oath, executed by an owner or officer of a
25 professional bail company, to the clerk of the circuit court
26 of the county in which the professional bail company shall

1 execute or become surety on appearance bonds which contains
2 the following:

3 "a. That all appearance bonds shall be executed in
4 the name of the professional bail company as surety by the
5 agents listed or appointed in the qualifying power of
6 attorney, letter, or other document presented to the court or
7 any other person so named in any future qualifying powers of
8 attorney, letters, or documents filed with the circuit clerk
9 of the county.

10 "b. That the professional bail company is ~~qualified~~
11 licensed by the Commissioner of Insurance to do business in
12 this state and its resident address.

13 "c. That the professional bail company has
14 sufficient financial net worth to satisfy its obligations as a
15 surety.

16 "d. That no person having a direct or indirect
17 financial interest in the professional bail company has been
18 convicted of a felony or a crime involving moral turpitude.
19 Notwithstanding the foregoing, if any person having a direct
20 or indirect financial interest in the bonding business has
21 been convicted of a felony or a crime involving moral
22 turpitude, then the person making the certification shall
23 certify that there has been a conviction, provide the name of
24 the person convicted, and certify that the person convicted
25 has been pardoned or has had a restoration of civil rights.

26 "e. That the professional bail company has no
27 knowledge of any forfeiture that has been made final for more

1 than 30 days that has not been paid arising out of surety
2 undertakings and as to which the professional bail company has
3 no petitions, motions, or other litigation matters pending.

4 "f. That there are no persons, including employees,
5 agents, or persons with a financial interest in the
6 professional bail company, who, within a period of two years,
7 violated this chapter, or any rules adopted by the Supreme
8 Court governing the qualifications of professional surety or
9 bail companies.

10 "g. That no employee, agent, or any other person
11 having a direct or indirect financial interest in the
12 professional bail company is an attorney, a judicial official,
13 a person authorized to accept an appearance bond, or an agent
14 of an attorney, judicial official, or person authorized to
15 accept an appearance bond.

16 "h. The names and addresses of all officers,
17 employees, and agents of the professional bail company who
18 have a direct or indirect financial interest in the
19 professional bail company and the nature and extent of each
20 interest."

21 Section 2. Although this bill would have as its
22 purpose or effect the requirement of a new or increased
23 expenditure of local funds, the bill is excluded from further
24 requirements and application under Amendment 621, now
25 appearing as Section 111.05 of the Official Recompilation of
26 the Constitution of Alabama of 1901, as amended, because the

1 bill defines a new crime or amends the definition of an
2 existing crime.

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