

SB213 ENGROSSED



1 B0S94Q-2
2 By Senators Sessions, Williams
3 RFD: Banking and Insurance
4 First Read: 18-Apr-23
5 2023 Regular Session



SB213 Engrossed

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

A BILL
TO BE ENTITLED
AN ACT

Relating to the Alabama Bail Reform Act of 1993; to amend Sections 15-13-107, 15-13-111, 15-13-114, 15-13-118, 15-13-125, 15-13-128, 15-13-131, 15-13-132, 15-13-134, 15-13-136, 15-13-137, 15-13-138, 15-13-139, 15-13-140, 15-13-141, 15-13-145, 15-13-159, 15-13-160, and 15-13-164, Code of Alabama 1975, to provide for the acceptance of certain filing fees by the sheriff or jailer; to further define cash bail and property bail; to provide further for the arrest and delivery of a defendant to jail by a surety with no court costs to be entered on the surety; to provide that a surety not be charged for a bondsman's process or for a certified copy of a bond; to require the license number of the bondsman or recovery on a bondsman's process form; to allow a surety to sign for a forfeiture with the clerk of the ordering court; to increase the time frame for which the ordering court has jurisdiction over a forfeiture action; to authorize a bail bondsman to file motions, answers, and notices relating to a defendant who is out on bond with that bondsman; to increase the time frames for providing notice and conducting hearings in conditional forfeiture proceedings; to remove the



SB213 Engrossed

29 requirement that a conditional judgment to set aside be made
30 absolute for the entire sum; to provide further for instances
31 when a court may set aside forfeiture and may not release a
32 defendant on judicial public bail; to provide further for
33 eligibility for judicial public bail; to provide further for
34 the amount of new corporate surety bonds and escrow agreements
35 required in counties with populations of 200,000 or more; to
36 provide further for criminal penalties for certain unlawful
37 behavior; to make nonsubstantive, technical revisions to
38 update the existing code language to current style; and in
39 connection therewith would have as its purpose or effect the
40 requirement of a new or increased expenditure of local funds
41 within the meaning of Section 111.05 of the Constitution of
42 Alabama of 2022.

43 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

44 Section 1. Sections 15-13-107, 15-13-111, 15-13-114,
45 15-13-118, 15-13-125, 15-13-128, 15-13-131, 15-13-132,
46 15-13-134, 15-13-136, 15-13-137, 15-13-138, 15-13-139,
47 15-13-140, 15-13-141, 15-13-145, 15-13-159, 15-13-160, and
48 15-13-164 of the Code of Alabama 1975, are amended to read as
49 follows:

50 "§15-13-107

51 (a) Judges of any court within the ~~State of Alabama~~
52 state may accept, take, and approve bail within the
53 jurisdiction of their respective courts.

54 (b) Circuit, district, and municipal court clerks,
55 including magistrates, may accept, take, and approve bail
56 within the jurisdiction of their respective courts.



SB213 Engrossed

57 (c) Only judicial officers and circuit, district, and
58 municipal court clerks or a designee of the court may accept
59 and approve appeal bonds and cash bonds. Provided, however,
60 that any person designated by the court to receive cash bonds,
61 shall be bonded to receive court ~~moneys~~ monies and have the
62 written approval of their chief administrative officer. Clerks
63 of the courts of Alabama may delegate to their employees the
64 right to accept and approve appeal bonds and cash bonds.

65 (d) Sheriffs of the state and chiefs of police having
66 custody of a defendant may accept, take, and approve property
67 or professional surety bail. The authority may be delegated to
68 their deputies and officers.

69 (e) The judicial officers and persons in subsections
70 (a), (b), (c), and (d) shall accept and shall release the
71 defendant when bail meets the requirements as set out in
72 Division 10, applying to professional surety. The judicial
73 officers and persons in subsection (c) shall accept, approve,
74 and release the defendant when the bail meets the requirements
75 as set out in Division 9, applying to cash bail. The judicial
76 officers and persons in subsections (a), (b), (c), and (d) may
77 accept, approve, and release the defendant when the officer or
78 person, as designated, is of the opinion the bail meets the
79 requirements as set out in Division 8 of this chapter,
80 applying to property bail.

81 (f) A sheriff or jailer may accept the filing fee
82 assessed under subsection (a) of Section 12-19-311, if payment
83 has been physically attached to the bail bond form at the time
84 of posting of the bail bond for the release of the defendant.



SB213 Engrossed

85 The clerks may accept business checks, cashiers checks,
86 certified checks, money orders, or cash. Any check or money
87 order shall be cashed within 90 days of receipt."

88 "§15-13-111

89 For persons arrested and taken into custody, there
90 shall be four kinds of bail used in this state. No other form
91 of bail may be approved and accepted by any judicial officer,
92 court clerk, magistrate, or any other person designated to
93 accept and approve bail as stipulated in Division 1, Sections
94 15-13-100 to 15-13-110, inclusive. The four kinds of bail
95 shall be judicial public bail, cash bail, property bail, and
96 professional surety bail. Their definitions are as follows:

97 (1) CASH BAIL. Cash bail is when the defendant or some
98 person on behalf of the defendant deposits cash in an amount
99 equal to ~~a part of~~ the total sum of the bail as set by the
100 judicial officer to the clerk of the court having jurisdiction
101 over the case. Acceptance of cash bail shall conform to
102 Division 9.

103 (2) JUDICIAL PUBLIC BAIL. Judicial public bail is the
104 release of any defendant without any condition of an
105 undertaking relating to, or a deposit of, security. ~~Such~~
106 Judicial public bail shall be granted to persons subjected to
107 custodial arrest only by a judicial officer having
108 jurisdiction over the defendant and in accordance with the
109 procedures established in Division 7 ~~of this article~~.

110 (3) PROFESSIONAL SURETY BAIL. Professional surety bail
111 is when a defendant is released on bail by having a
112 professional surety or professional bail company execute a



SB213 Engrossed

113 bond on behalf of the defendant and becoming surety on the
114 bail. ~~Such~~ Professional surety or professional bail companies
115 shall meet the qualification requirements of Division 10.

116 (4) PROPERTY BAIL. Property bail is when a defendant is
117 released on bail by having at least one or more real property
118 owners that own real property in the ~~State of Alabama~~ state,
119 execute or become bail or surety for the defendant. ~~Such~~
120 ~~property~~ Real property owners shall qualify and meet
121 requirements applying to property bail as set out in Division
122 8."

123 "§15-13-114

124 The obligation of the sureties continues throughout
125 every stage of trial, from the time the defendant is entered
126 thereon until the rendition of the verdict by the jury or
127 judge. The finding of the defendant guilty by a jury or judge
128 discharges the sureties. The obligation of the sureties are
129 also discharged when the judge takes any of the following
130 actions:

131 (1) Sentences the defendant.

132 (2) Grants the prosecutor's motion to nol pros the
133 case.

134 (3) Dismisses the case.

135 (4) ~~Issuance of~~ Issues any order to the defendant to
136 attend driving-under-the-influence school, mental health
137 counseling, or any similar order of which the court would only
138 have had the authority to do so, ~~if there had been an~~
139 ~~adjudication of guilt or in cases where there has been an~~
140 ~~adjudication of guilt.~~



SB213 Engrossed

141 (5) ~~Issuance of~~ Issues any order of restitution or
142 payments received from the defendant to the court for fines,
143 court costs, or restitution when a bail bond is posted before
144 a case is adjudicated.

145 (6) ~~Announcement or order of~~ Announces or orders
146 sentence prior to any probation determination."

147 "§15-13-118

148 After the entry of a conditional forfeiture against any
149 surety on an undertaking of bail, the surety may arrest the
150 defendant as provided in Section 15-13-117, ~~but~~ and the arrest
151 and delivery of the defendant to the authorized jail as stated
152 in Section 15-13-117 shall ~~not~~ exonerate the surety ~~unless, in~~
153 ~~the judgment of the court, a good and sufficient cause is~~
154 ~~given for the failure of the defendant to appear at the time~~
155 ~~the conditional judgement was entered."~~

156 "§15-13-125

157 The clerk of the court having jurisdiction over the
158 defendant shall issue a bondsman's process to the sureties on
159 ~~such~~ the bail upon their request. The request may be made by
160 any one of the sureties. Before the issuance of the process,
161 the clerk shall determine if the case is still open and the
162 defendant and the sureties have not been discharged by law. A
163 surety shall not be charged for the bondsman's process or for
164 a certified copy of the bond."

165 "§15-13-128

166 The following shall be substantially the form to be
167 used for a bondsman's process. BONDSMAN'S PROCESS STATE OF
168 ALABAMA



SB213 Engrossed

169 COUNTY OF _____.

170 (or)

171 CITY OF _____.

172 WHEREAS, the Sureties on the bail of the defendant
173 _____, in case number _____, have expressed their desire to
174 surrender the defendant to the custody of _____ of (City or
175 County), Alabama, and such desire has been expressed to the
176 clerk of the _____ Court of the City/County of _____, Alabama,
177 and,

178 WHEREAS, the clerk has checked the records and case
179 number _____ is still pending and the defendant nor his or her
180 sureties have been discharged of their obligations, or the
181 records of case number _____ reflect that the defendant has
182 failed to appear on the obligation of bail as required and a
183 warrant has been issued for the arrest of the defendant.

184 NOW, THEREFORE, this document is issued, as required by
185 law, and the document gives the right to the Sureties
186 (bondsmen) to arrest the defendant, _____ at any place in the
187 State of Alabama, or the sureties may authorize another person
188 to arrest the defendant by an endorsement in writing on this
189 document or attached to this document and the surety or
190 bondsman shall forthwith, after the arrest, take the defendant
191 to the _____ jail of _____, custodian thereof.

192 Executed this _____ day of _____, 20__.

193 _____ CLERK OF COURT

194 SEAL:

195 Bondsman Return

196 On this _____ day of _____, 20__, I _____



SB213 Engrossed

197 agent for _____ surrender the above named defendant to
198 the _____ jail of _____.

199 Time: _____

200 Bondsman's or Recovery License Number: _____."

201 "§15-13-131

202 (a) When a defendant fails to appear in court as
203 required by the undertaking of bail and no sufficient excuse
204 has been provided to the court prior to the hearing, the court
205 shall order a conditional forfeiture and show cause order
206 against the defendant and the sureties of the bail. The court
207 shall notify defendant and sureties of the order as set out in
208 this article. The defendant or sureties, or both, shall file a
209 written response with the clerk of the court within ~~28~~30 days
210 ~~of~~ after the date of service of the notice why the bond should
211 not be forfeited. If a written response is filed within the
212 time allowed and the court is of the opinion the written
213 response is sufficient, the court shall set aside the
214 conditional forfeiture. If the court is of the opinion the
215 written response is not sufficient, the court shall set a
216 hearing to determine whether the bond should be forfeited. The
217 hearing shall not be set less than ~~90~~ 120 days ~~of~~ after the
218 service of the conditional forfeiture order. If no written
219 response has been filed after ~~28~~ 30 days from the date of
220 service of the notice, the court may enter an appropriate
221 order or final judgment forfeiting all or part of the amount
222 of the bond which shall be enforceable as any civil judgment.
223 The court may take into consideration the circumstances
224 provided to the court and continue any final forfeiture



SB213 Engrossed

225 hearing to another day and time allowing the sureties more
226 time to apprehend the defendant.

227 (b) When an undertaking of bail is forfeited by the
228 failure of the defendant to appear as required, except when
229 money is deposited as cash bail, a conditional judgment shall
230 be rendered by the court in favor of the state or its
231 subdivisions, for the use of the proper city, county, or
232 state, against the parties to the undertaking for the sum
233 thereon expressed, which judgment may be substantially as
234 follows:

235 (State of or City of) Charge: _____ vs Case No.

236 _____ A.B. _____ C.D. _____ E.F.

237 (Sureties) _____

238 It being known to the court that A.B., together with
239 (Sureties) _____, agreed to pay the State of Alabama (or City
240 of _____,) _____ dollars (the sum specified in the
241 undertaking), unless A.B. appeared at the time and place
242 mentioned and fixed in the bond or undertaking to answer in
243 this case and A.B. having failed to appear at the time and
244 place mentioned in the bond or undertaking, it is therefore
245 ordered by the court that the State of Alabama (or City of
246 _____,) for the use of _____ State (or City), recover of the
247 defendant and sureties on the undertakings, the sum of _____
248 dollars (the sum specified in the undertaking), unless they
249 file a written response and show cause why this judgment
250 should not be made absolute within ~~in 28~~ 30 days ~~of~~ after the
251 date of service of this conditional forfeiture order.

252 (c) The state shall remit one-half of the funds it



SB213 Engrossed

253 receives under subsections (a) and (b) to the county in which
254 the defendant was charged. The funds shall be deposited into
255 the general fund of the county and used for the maintenance
256 and operation of the county jail."

257 "§15-13-132

258 A notice of the rendition of the judgment set forth in
259 Section 15-13-131 shall be issued by the clerk of the court
260 and served according to the terms as established in this
261 article within 90 days ~~of the court's conditional forfeiture~~
262 ~~order to the defendant and sureties. The notice may be in the~~
263 ~~following form~~ after the defendant's failure to appear in
264 court:

265 STATE OF ALABAMA _____ (or City of
266 _____) Defendant vs _____ County _____
267 SuretyCase No. _____ SuretyCharge:
268 _____ Conditional Forfeiture Notice To:
269 _____
270 CourtDefendant _____ Surety

271 You are hereby notified that your name appears as a
272 surety on the bond in the above styled case. This case was
273 called for trial on _____ (date) and the defendant was not
274 present to answer. Therefore, a conditional forfeiture of
275 _____ dollars was entered against you.

276 You shall file a written response within ~~in-28~~ 30 days
277 after you receive this notice and show cause to the court why
278 this bond amount and the court cost incident to this
279 forfeiture should not be made final.

280 If no action on your part is taken ~~en-28~~ 30 days after the



SB213 Engrossed

281 date you receive this notice, a final forfeiture may be
282 entered against you by the court. The sheriff shall collect
283 the amount of the bond and court cost from you or levy on your
284 property to satisfy the forfeiture case. If you file a written
285 response and the court is of the opinion your written response
286 is not sufficient to set aside the conditional forfeiture,
287 then the court shall set a final forfeiture hearing date and
288 you will be notified at the address provided on the response.

289 This bond forfeiture is a court case against you
290 separate from the defendant's criminal case. The court has
291 also ordered that the defendant be re-arrested in the original
292 case.

293 Date issued: _____ By _____ Clerk "
294 "§15-13-134

295 A conditional forfeiture notice may be served by any
296 law enforcement officer, at the law enforcement office in the
297 same manner as a summons in a civil action, except that
298 service may not be by publication. At the law enforcement
299 officer's discretion and expense, the notice may be served by
300 certified mail, requiring a signed receipt or some equivalent
301 thereof. In the event the notice is served by certified mail,
302 return of the receipt properly signed shall be prima facie
303 evidence of service. A surety may sign for the forfeiture with
304 the clerk of the court. The notice required by this subsection
305 ~~must~~ shall be returned by the ~~person~~ individual serving it,
306 with his or her proper return endorsed thereon, within
307 ~~twenty-eight~~ 30 days of the date of issuance or within five
308 days of service, whichever period of time is shorter."



SB213 Engrossed

309 "§15-13-136

310 In forfeiture cases where the clerk of the court has
311 failed to issue the conditional forfeiture notice as
312 stipulated in Section 15-13-132 and where there has been no
313 service as set out in Section 15-13-134 made within 90 days ~~of~~
314 after the ~~order of the court~~ defendant fails to appear as set
315 out in Section 15-13-131, and where the sureties have complied
316 with Section 15-13-133, then the sureties shall be discharged
317 from all liability of the bail and the conditional judgment
318 shall be set aside against ~~such~~ those sureties."

319 "§15-13-137

320 If the defendants appear and show sufficient cause for
321 the default to be determined by the court, the conditional
322 judgment shall be set aside. If the excuse is not sufficient,
323 or if the defendant or sureties fail to appear at the final
324 forfeiture hearing, the judgment ~~shall~~ may be made absolute
325 for the entire sum expressed in the undertaking, or any
326 portion thereof according to the circumstances."

327 "§15-13-138

328 The court shall set aside the conditional forfeiture in
329 its entirety for the following reasons or under the following
330 circumstances:

331 (1) If the sureties can show that the defendant was
332 hospitalized at the time he or she was to appear in court, or
333 if the sureties can produce sufficient evidence that the
334 defendant was not able to attend court for reason of illness,
335 by producing a doctor's certificate or letter to that effect.
336 The hospitalization may be in or out of ~~the State of Alabama~~



SB213 Engrossed

337 this state. For the sureties to take advantage of this
338 ~~provision~~ subdivision, they shall put the court on notice that
339 the situation exists either prior to the issuance of the
340 conditional forfeiture order or within ~~28~~ 30 days after legal
341 service of the conditional forfeiture on the sureties. After
342 receiving notice, the court may continue the case to a future
343 date it deems proper and just for the defendant to appear. If
344 at that time the defendant is still not able to attend court
345 for the same reason, then it shall be the burden of the
346 sureties to produce the evidence within the same prescribed
347 time. This section ~~shall~~ does not bar the court from the
348 issuance of a bench warrant for the defendant in cases where
349 the court feels that documents of proof do not reflect the
350 truth, or where the court has reason to believe the defendant
351 may appear and he or she is using ~~such~~ the documents of proof
352 as an excuse to avoid appearance.

353 (2) If the sureties show that the defendant was
354 confined in jail or in the custody of another jurisdiction in
355 ~~the State of Alabama~~ this state or any other state, at the
356 time of his or her original appearance or on the date of the
357 issuance of the conditional forfeiture order, or if the surety
358 shows that the defendant is still confined in any jail in ~~the~~
359 ~~State of Alabama~~ this state or any other state, or in the
360 custody of another jurisdiction within ~~the State of Alabama~~
361 this state or any other state, or in the custody of another
362 jurisdiction within the continental United States, including
363 United States federal jurisdiction, the court shall set aside
364 the conditional forfeiture and continue the case until a time



SB213 Engrossed

365 after the end of that confinement. If the court later learns
366 that the defendant is free from confinement before the
367 confinement was supposed to end, then the court, with notice
368 to the sureties, may reset the case and the burden shall be on
369 the sureties to produce the defendant for the hearing or the
370 court may issue another conditional forfeiture.

371 (3) If the sureties show the defendant is deceased.

372 (4) If the sureties show the defendant was serving on
373 active duty in one of the military services of the United
374 States."

375 "§15-13-139

376 In forfeiture cases where the sureties have paid the
377 amount of the forfeiture into the court or in cases where the
378 forfeiture has been made final or absolute and there is no
379 further litigation pending on the forfeiture, and the surety
380 locates the defendant and causes the return of the defendant
381 to the custody of the court where the bond was forfeited, and
382 if the defendant was substantially procured by actions of the
383 surety, and the administration of justice has not been
384 thwarted nor the successful prosecution of the defendant has
385 been affected, then the court which ordered the forfeiture,
386 shall have full power and jurisdiction in all proceedings
387 conducted pursuant to this article and within a period of ~~six~~
388 months one year from the date of issuance of any final
389 forfeiture judgment, to consider any costs to the state or its
390 subdivisions which resulted as a cause of the default, if any,
391 and upon giving consideration thereto, may, in the court's
392 discretion, remit the whole of the penalty of the bail, or



SB213 Engrossed

393 undertaking, or any portion thereof, which is in excess of any
394 costs to the state or its subdivisions, and render a new final
395 judgment against the sureties appearing upon the bail bond or
396 undertaking. In forfeiture cases, if the judgment has been
397 paid into the State Treasury or ~~Municipal Treasury~~ a municipal
398 treasury, the court may issue an order to the custodian of the
399 treasury to make a refund to the sureties."

400 "§15-13-140

401 Reasons for default shall be heard by the court on
402 application, at any time when not engaged in other business.
403 When a conditional judgment is set aside for sufficient cause,
404 no cost shall be imposed on the sureties. This ~~provision~~
405 section has no application where money is deposited instead of
406 bail. Sureties may appear before the courts of this state or
407 its subdivisions to answer any "show cause order," conditional
408 or final forfeiture to give any reasons for default, to
409 present any defense to the default, and for any other purpose
410 of informing the courts about information relating to the
411 appearance or non-appearance of the defendant on the bail of
412 which they are surety. If the surety is a professional surety
413 company or professional bail company then any agent or
414 representative of the professional surety company or
415 professional bail company may appear for the same purposes."

416 "§15-13-141

417 In all cases where a conditional forfeiture has been
418 made final by any court of the state or any of its
419 subdivisions and there has been no further action or request
420 filed with the court, appeal taken, ~~application to the State~~



SB213 Engrossed

421 ~~Pardons and Paroles Board,~~ or any other litigation of which
422 the court has knowledge has been filed by the surety with the
423 court within 30 days to the clerk of the court of the entry or
424 order of the final judgment and the same has not been paid
425 within 30 days to the clerk of the court, then the clerk shall
426 refuse to accept and approve any bonds from the surety as
427 being insufficient. The clerk shall notify all persons
428 authorized to accept and approve bonds returnable to the court
429 of the action and they shall no longer accept or approve
430 surety on bonds until notified otherwise by the clerk. The
431 clerk shall also notify the circuit clerk of the county who
432 shall notify all other clerks of any courts in the county in
433 writing and the clerks shall refuse to accept or approve any
434 other bonds of the surety and shall notify the other
435 authorized persons having the authority to approve and accept
436 bail returnable to their courts of the action and they shall
437 no longer accept or approve the surety on bail until otherwise
438 notified by the clerk. Refusal by the clerks shall be in
439 writing and shall be known as a "clerk's revocation of
440 surety."

441 "§15-13-145

442 Any person charged with a felony, misdemeanor, or
443 violation shall be eligible for a judicial public bail, if:

444 (1) The person is not charged with robbery, capital
445 murder, forcible sex crimes, escape, trafficking in drugs, or
446 the sale of drugs.

447 (2) The person has not been convicted of a previous
448 felony or committed a felony while being released on any form



SB213 Engrossed

449 of bail.

450 (3) The person is not presently under a suspended
451 sentence or on probation or parole for a previous conviction
452 on a misdemeanor or a felony.

453 (4) There is no evidence, satisfactory to the judicial
454 officer, that the person has violated a previous bail release,
455 whether it be judicial public bail, property, cash, ~~or~~
456 professional surety bail, or failure to appear."

457 "§15-13-159

458 No professional surety company shall execute or become
459 surety on any appearance bond in this state, unless it has an
460 order granting authorization to become professional surety on
461 any bail. The order granting the authorization shall be
462 reissued annually, prior to January 1 of each year, by the
463 presiding circuit judge of the county in which the company
464 desires to execute bail or appearance bonds. Prior to the
465 judge's issuance of the original order and no later than
466 December 1 of each year, thereafter, professional surety
467 companies shall submit annually to the presiding circuit judge
468 the following:

469 (1) An original or certified copy of a certificate of
470 authority or certificate of compliance from the Department of
471 Insurance reflecting that the company is qualified to write a
472 bail line of insurance and that the company is in good
473 standing with the department.

474 (2) An original qualifying power of attorney issued by
475 the professional surety company, specifying any applicable
476 limitations and the names of the agents that may execute and



SB213 Engrossed

477 bind the company to a bail undertaking. The qualifying power
478 of attorney shall not name any company, corporation, or other
479 entity as an agent except a person as defined as a
480 professional bondsman in Division 1, Section 15-13-100 of this
481 chapter, and that person shall be an agent of the company
482 licensed with the Department of Insurance.

483 (3) A copy of the license issued by the Department of
484 Insurance of each agent who is named in or appointed by the
485 qualifying power of attorney in subdivision (2) or a letter or
486 other documentation from the department indicating that the
487 appointed agents are temporarily licensed as agents of the
488 professional surety company for those lines of insurance.

489 (4) An affidavit or certification in writing, under
490 oath, executed by a licensed agent of the professional surety
491 company who is the manager or an owner or president of a
492 corporation, company, partnership, or other entity that
493 represents the professional surety company, filed with the
494 clerk of the circuit court of each county in which the
495 professional surety company executes or becomes surety on
496 appearance bonds, stating the following:

497 a. That all appearance bonds shall be executed in the
498 name of the professional surety company as surety by the
499 agents listed or appointed in the qualifying power of attorney
500 presented to the court or any other qualifying powers of
501 attorney filed with the circuit clerk of the county.

502 b. That all agents listed or appointed in the
503 qualifying powers of attorney shall be licensed by the
504 Department of Insurance, prior to their appointments.



SB213 Engrossed

505 c. That any agency, company, corporation, or other
506 entity that represents the professional surety company in the
507 county, has no owners or other persons having a direct or
508 indirect financial interest in such agency, company,
509 corporation, or other entity, that have been convicted of a
510 felony or a crime involving moral turpitude. If any person
511 having a direct or indirect financial interest in such agency,
512 company, corporation, or other entity has been convicted of a
513 felony or a crime involving moral turpitude, then the
514 affidavit or certification shall certify that there has been
515 such conviction, providing the name of the person convicted,
516 and certify that the person convicted has been pardoned or has
517 had a restoration of civil rights.

518 d. That the professional surety company has no
519 knowledge of forfeitures that have been final for more than 30
520 days that have not been paid to the clerk of the court arising
521 out of surety undertaking, and that the professional surety
522 company has no petitions, motions, or other litigation matters
523 pending.

524 e. That no agents of the professional surety company
525 who have the authority to execute appearance bonds in its
526 behalf or any person having a financial interest, direct or
527 indirect, in the ownership or management of any agency,
528 company, corporation, or other entity that represents the
529 professional surety company in the execution of appearance
530 bonds, is an attorney, a judicial official, a person
531 authorized to accept an appearance bond, or an agent of an
532 attorney, judicial official, or person authorized to accept an



SB213 Engrossed

533 appearance bond.

534 f. The names and addresses of all persons, officers,
535 employees, and agents of the agency, company, corporation, or
536 other entity that represents the professional surety company
537 becoming surety on appearance bonds who have a direct or
538 indirect financial interest in the agency, company,
539 corporation, or other entity representing the professional
540 surety company and the nature and extent of each interest.

541 g. That those persons stated in this section have not,
542 within a period of two years, violated any provisions of this
543 chapter or any rules adopted by the Supreme Court of Alabama
544 in accordance with this chapter.

545 (5) A copy of the current license issued by the Alabama
546 Professional Bail Bonding Board pursuant to the Alabama Bail
547 Bond Regulatory Act, Article 8, commencing with Section
548 15-13-200."

549 "§15-13-160

550 (a) No professional bail company shall execute or
551 become surety on any appearance bond in this state, unless ~~it~~
552 the company has an order granting authorization to become
553 professional surety on any bail. The order granting
554 authorization shall be reissued annually prior to January 1 of
555 each year by the presiding circuit judge of the county in
556 which the company desires to execute bail or appearance bonds.
557 Prior to the judge's issuance of the original order and no
558 later than December 1 of each year, thereafter, professional
559 bail companies shall submit annually to the presiding circuit
560 judge the following:



SB213 Engrossed

561 (1) a. An original corporate surety bond or escrow
562 agreement, filed and approved by the presiding circuit judge
563 of the county in which the professional bail company executes
564 or becomes surety on appearance bonds, in the amount of
565 ~~\$25,000~~ twenty-five thousand dollars (\$25,000), guaranteeing
566 the payment of all sums of money that may become due by virtue
567 of any judgment absolute that may be rendered against the
568 professional bail company on a forfeiture entered by any court
569 in the county. Corporate surety bonds shall be executed only
570 by a surety company authorized to do business in the ~~State of~~
571 ~~Alabama~~ this state and qualified to write bonds by the
572 Department of Insurance. The corporate surety bond shall
573 provide that it may be cancelled as to any future liability by
574 the corporate surety company or the professional bail company
575 giving 30 days prior written notice of the cancellation to the
576 clerk of the circuit court in which the bond or instrument was
577 filed. A bank in ~~the State of Alabama~~ this state shall be a
578 party to all escrow agreements, and those agreements shall
579 provide that the agreement may be cancelled as to any future
580 liability only by the professional bail company and bank
581 giving 30 days prior written notice of the cancellation to the
582 clerk of the circuit court in which the escrow agreement or
583 instrument is filed. Once a professional bail company has
584 filed an original continuous corporate surety bond or escrow
585 agreement with the circuit clerk and it has been approved by
586 the presiding circuit judge, then the professional bail
587 company does not have to file any other original continuous
588 corporate surety bond or escrow agreement upon annual



SB213 Engrossed

589 recertification. The professional bail company shall submit an
590 original certificate from the insurance company which executed
591 the corporate surety bond reflecting that it is still in force
592 or an original letter from the bank stating the escrow
593 agreement is still effective and the ~~moneys~~ monies are still
594 held in trust. When any professional bail company is annually
595 recertifying, the circuit clerk shall send the original
596 corporate surety bond or original escrow agreement with any
597 cancellations received by the circuit clerk to the presiding
598 circuit judge for review and approval.

599 b. Any new original corporate surety bond or escrow
600 agreement made after the effective date of the act adding this
601 paragraph, in a county with a population of 200,000 or more,
602 shall require a surety bond or escrow agreement in the amount
603 of fifty thousand dollars (\$50,000). This paragraph does not
604 affect any corporate surety bond or escrow agreement made
605 before the effective date of the act adding this paragraph.
606 Current escrow agreements and corporate surety bonds shall
607 remain at twenty-five thousand dollars (\$25,000) for any
608 renewal thereafter.

609 (2) An original qualifying power of attorney, letter,
610 or other document issued by the professional bail company
611 specifying any applicable limitations and specifying the
612 agents who are authorized to execute and bind the professional
613 bail company to a bail undertaking or to appearance bonds. The
614 qualifying power of attorney, letter, or other document may
615 only name persons as agents.

616 (3) An original affidavit or certificate in writing,



SB213 Engrossed

617 under oath, executed by an owner or officer of a professional
618 bail company, to the clerk of the circuit court of the county
619 in which the professional bail company shall execute or become
620 surety on appearance bonds which contains all of the
621 following:

622 a. That all appearance bonds shall be executed in the
623 name of the professional bail company as surety by the agents
624 listed or appointed in the qualifying power of attorney,
625 letter, or other document presented to the court or any other
626 person so named in any future qualifying powers of attorney,
627 letters, or documents filed with the circuit clerk of the
628 county.

629 b. That the professional bail company is qualified to
630 do business in this state and its resident address.

631 c. That the professional bail company has sufficient
632 financial net worth to satisfy its obligations as a surety.

633 d. That no person having a direct or indirect financial
634 interest in the professional bail company has been convicted
635 of a felony or a crime involving moral turpitude.

636 Notwithstanding the foregoing, if any person having a direct
637 or indirect financial interest in the bonding business has
638 been convicted of a felony or a crime involving moral
639 turpitude, then the person making the certification shall
640 certify that there has been a conviction, provide the name of
641 the person convicted, and certify that the person convicted
642 has been pardoned or has had a restoration of civil rights.

643 e. That the professional bail company has no knowledge
644 of any forfeiture that has been made final for more than 30



SB213 Engrossed

645 days that has not been paid arising out of surety undertakings
646 and as to which the professional bail company has no
647 petitions, motions, or other litigation matters pending.

648 f. That there are no persons, including employees,
649 agents, or persons with a financial interest in the
650 professional bail company, who, within a period of two years,
651 violated this chapter, or any rules adopted by the Supreme
652 Court governing the qualifications of professional surety or
653 bail companies.

654 g. That no employee, agent, or any other person having
655 a direct or indirect financial interest in the professional
656 bail company is an attorney, a judicial official, a person
657 authorized to accept an appearance bond, or an agent of an
658 attorney, judicial official, or person authorized to accept an
659 appearance bond.

660 h. The names and addresses of all officers, employees,
661 and agents of the professional bail company who have a direct
662 or indirect financial interest in the professional bail
663 company and the nature and extent of each interest.

664 (b) A professional bondsman may not own a professional
665 bail company until he or she has been licensed as a
666 professional bondsman for at least three years. If the owner
667 of a professional bail company dies or becomes completely
668 incapacitated, as determined by the board, his or her
669 professional bail bond company may be sold to an unlicensed
670 individual. The unlicensed individual shall have 90 calendar
671 days, from date of purchase, to obtain a license and shall
672 employ a minimum of one employee who has been licensed for at



SB213 Engrossed

673 least three consecutive years."

674 "§15-13-164

675 (a) Any person who becomes surety on any bail for a
676 defendant in this state and receives something of value or
677 charges a fee therefor, and who is not authorized as a
678 professional surety or bail company under this chapter shall
679 be guilty of a Class A misdemeanor and, upon conviction, shall
680 be sentenced in accordance with the laws of this state for
681 such an offense.

682 (b) Any defendant, or other individual who provides
683 false information to the court or to the surety on any bail
684 bond forms or contracts, shall be guilty of a Class A
685 misdemeanor and, upon conviction, shall be sentenced in
686 accordance with the laws of this state.

687 (c) Any surety who exchanges sexual services in
688 exchange for bail bond services shall be guilty of a Class C
689 felony and, upon conviction, shall be sentenced in accordance
690 with the laws of this state."

691 Section 2. Although this bill would have as its purpose
692 or effect the requirement of a new or increased expenditure of
693 local funds, the bill is excluded from further requirements
694 and application under Section 111.05 of the Constitution of
695 Alabama of 2022, because the bill defines a new crime or
696 amends the definition of an existing crime.

697 Section 3. The provisions of this act are severable. If
698 any part of this act is declared invalid or unconstitutional,
699 such declaration shall not affect the part which remains.

700 Section 4. This act shall become effective on the first



SB213 Engrossed

701 day of the third month following its passage and approval by
702 the Governor, or its otherwise becoming law.

SB213 Engrossed



703
704
705 Senate

706 Read for the first time and referred18-Apr-23
707 to the Senate committee on Banking
708 and Insurance
709
710 Read for the second time and placed03-May-23
711 on the calendar:
712 0 amendments
713
714 Read for the third time and passed24-May-23
715 as amended
716 Yeas 35
717 Nays 0
718 Abstains 0
719
720

Patrick Harris,
Secretary.

721
722
723