

SB213 INTRODUCED



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

Under existing law, the Alabama Bail Reform Act of 1993, defines and provides for the use of bail bonds and the duties and responsibilities of professional bail and professional surety companies.

This bill would provide for the acceptance of certain filing fees by the sheriff or jailer, and would provide further for the definitions of cash bail and property bail.

This bill would 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, would provide that a surety not be charged for a bondsman's process or for a certified copy of a bond, and would require the license number of the bondsman or recovery to be listed on a bondsman's process form.

This bill would authorize a surety to sign for a conditional forfeiture notice with the clerk of the ordering court.

This bill would increase the time frame for which the ordering court has jurisdiction over a forfeiture action to one year.

This bill would authorize a bail bondsman to file motions, answers, and notices relating to a defendant who is out on bond with that bondsman.



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29 This bill would increase the time frames for
30 notice and conducting hearings in conditional
31 forfeiture proceedings.

32 This bill would remove the requirement that a
33 conditional judgment to set aside shall be made
34 absolute for the entire sum and would provide further
35 for instances when a court may set aside forfeiture,
36 may not release a defendant on judicial public bail,
37 and eligibility for judicial public bail.

38 This bill would provide further for the amount
39 of new corporate surety bonds and escrow agreements
40 required in counties with populations of 200,000 or
41 more.

42 This bill would provide further for criminal
43 penalties for certain unlawful behavior.

44 This bill would also make nonsubstantive,
45 technical revisions to update the existing code
46 language to current style.

47 Section 111.05 of the Constitution of Alabama of
48 2022, prohibits a general law whose purpose or effect
49 would be to require a new or increased expenditure of
50 local funds from becoming effective with regard to a
51 local governmental entity without enactment by a 2/3
52 vote unless: it comes within one of a number of
53 specified exceptions; it is approved by the affected
54 entity; or the Legislature appropriates funds, or
55 provides a local source of revenue, to the entity for
56 the purpose.



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57 The purpose or effect of this bill would be to
58 require a new or increased expenditure of local funds
59 within the meaning of the amendment. However, the bill
60 does not require approval of a local governmental
61 entity or enactment by a 2/3 vote to become effective
62 because it comes within one of the specified exceptions
63 contained in the amendment.

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A BILL

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TO BE ENTITLED

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AN ACT

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70 Relating to the Alabama Bail Reform Act of 1993; to
71 amend Sections 15-13-107, 15-13-111, 15-13-114, 15-13-118,
72 15-13-125, 15-13-128, 15-13-131, 15-13-132, 15-13-134,
73 15-13-136, 15-13-137, 15-13-138, 15-13-139, 15-13-140,
74 15-13-141, 15-13-145, 15-13-159, 15-13-160, and 15-13-164,
75 Code of Alabama 1975, to provide for the acceptance of certain
76 filing fees by the sheriff or jailer; to further define cash
77 bail and property bail; to provide further for the arrest and
78 delivery of a defendant to jail by a surety with no court
79 costs to be entered on the surety; to provide that a surety
80 not be charged for a bondsman's process or for a certified
81 copy of a bond; to require the license number of the bondsman
82 or recovery on a bondsman's process form; to allow a surety to
83 sign for a forfeiture with the clerk of the ordering court; to
84 increase the time frame for which the ordering court has



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85 jurisdiction over a forfeiture action; to authorize a bail
86 bondsman to file motions, answers, and notices relating to a
87 defendant who is out on bond with that bondsman; to increase
88 the time frames for providing notice and conducting hearings
89 in conditional forfeiture proceedings; to remove the
90 requirement that a conditional judgment to set aside be made
91 absolute for the entire sum; to provide further for instances
92 when a court may set aside forfeiture and may not release a
93 defendant on judicial public bail; to provide further for
94 eligibility for judicial public bail; to provide further for
95 the amount of new corporate surety bonds and escrow agreements
96 required in counties with populations of 200,000 or more; to
97 provide further for criminal penalties for certain unlawful
98 behavior; to make nonsubstantive, technical revisions to
99 update the existing code language to current style; and in
100 connection therewith would have as its purpose or effect the
101 requirement of a new or increased expenditure of local funds
102 within the meaning of Section 111.05 of the Constitution of
103 Alabama of 2022.

104 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

105 Section 1. Sections 15-13-107, 15-13-111, 15-13-114,
106 15-13-118, 15-13-125, 15-13-128, 15-13-131, 15-13-132,
107 15-13-134, 15-13-136, 15-13-137, 15-13-138, 15-13-139,
108 15-13-140, 15-13-141, 15-13-145, 15-13-159, 15-13-160, and
109 15-13-164 of the Code of Alabama 1975, are amended to read as
110 follows:

111 "§15-13-107

112 (a) Judges of any court within the ~~State of Alabama~~



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113 state may accept, take, and approve bail within the
114 jurisdiction of their respective courts.

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

118 (c) Only judicial officers and circuit, district, and
119 municipal court clerks or a designee of the court may accept
120 and approve appeal bonds and cash bonds. Provided, however,
121 that any person designated by the court to receive cash bonds,
122 shall be bonded to receive court ~~moneys~~ monies and have the
123 written approval of their chief administrative officer. Clerks
124 of the courts of Alabama may delegate to their employees the
125 right to accept and approve appeal bonds and cash bonds.

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

130 (e) The judicial officers and persons in subsections
131 (a), (b), (c), and (d) shall accept and shall release the
132 defendant when bail meets the requirements as set out in
133 Division 10, applying to professional surety. The judicial
134 officers and persons in subsection (c) shall accept, approve,
135 and release the defendant when the bail meets the requirements
136 as set out in Division 9, applying to cash bail. The judicial
137 officers and persons in subsections (a), (b), (c), and (d) may
138 accept, approve, and release the defendant when the officer or
139 person, as designated, is of the opinion the bail meets the
140 requirements as set out in Division 8 of this chapter,



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141 applying to property bail.

142 (f) A sheriff or jailer shall accept the filing fee
143 assessed under subsection (a) of Section 12-19-311, if payment
144 has been physically attached to the bail bond form at the time
145 of posting of the bail bond for the release of the defendant.
146 The clerks may accept business checks, cashiers checks,
147 certified checks, money orders, or cash. Any check or money
148 order shall be cashed within 90 days of receipt."

149 "§15-13-111

150 For persons arrested and taken into custody, there
151 shall be four kinds of bail used in this state. No other form
152 of bail may be approved and accepted by any judicial officer,
153 court clerk, magistrate, or any other person designated to
154 accept and approve bail as stipulated in Division 1, Sections
155 15-13-100 to 15-13-110, inclusive. The four kinds of bail
156 shall be judicial public bail, cash bail, property bail, and
157 professional surety bail. Their definitions are as follows:

158 (1) CASH BAIL. Cash bail is when the defendant or some
159 person on behalf of the defendant deposits cash in an amount
160 equal to ~~a part or~~ the total sum of the bail as set by the
161 judicial officer to the clerk of the court having jurisdiction
162 over the case. Acceptance of cash bail shall conform to
163 Division 9.

164 (2) JUDICIAL PUBLIC BAIL. Judicial public bail is the
165 release of any defendant without any condition of an
166 undertaking relating to, or a deposit of, security. ~~Such~~
167 Judicial public bail shall be granted to persons subjected to
168 custodial arrest only by a judicial officer having



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169 jurisdiction over the defendant and in accordance with the
170 procedures established in Division 7 ~~of this article~~.

171 (3) PROFESSIONAL SURETY BAIL. Professional surety bail
172 is when a defendant is released on bail by having a
173 professional surety or professional bail company execute a
174 bond on behalf of the defendant and becoming surety on the
175 bail. ~~Such~~ Professional surety or professional bail companies
176 shall meet the qualification requirements of Division 10.

177 (4) PROPERTY BAIL. Property bail is when a defendant is
178 released on bail by having at least one or more real property
179 owners that own real property in the ~~State of Alabama~~ state,
180 execute or become bail or surety for the defendant. ~~Such~~
181 ~~property~~ Real property owners shall qualify and meet
182 requirements applying to property bail as set out in Division
183 8."

184 "§15-13-114

185 The obligation of the sureties continues throughout
186 every stage of trial, from the time the defendant is entered
187 thereon until the rendition of the verdict by the jury or
188 judge. The finding of the defendant guilty by a jury or judge
189 discharges the sureties. The obligation of the sureties are
190 also discharged when the judge takes any of the following
191 actions:

192 (1) Sentences the defendant.

193 (2) Grants the prosecutor's motion to nol pros the
194 case.

195 (3) Dismisses the case.

196 (4) ~~Issuance of~~ Issues any order to the defendant to



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197 attend driving-under-the-influence school, mental health
198 counseling, mental health court, pretrial diversion, drug
199 court, veterans court, or any similar order of which the court
200 would only have had the authority to do so, ~~if there had been~~
201 ~~an adjudication of guilt or in cases where there has been an~~
202 ~~adjudication of guilt.~~

203 (5) ~~Issuance of~~ Issues any order of restitution or
204 payments received from the defendant to the court for fines,
205 court costs, or restitution.

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

208 "§15-13-118

209 After the entry of a conditional forfeiture against any
210 surety on an undertaking of bail, the surety may arrest the
211 defendant as provided in Section 15-13-117, ~~but~~ and the arrest
212 and delivery of the defendant to the authorized jail as stated
213 in Section 15-13-117 shall ~~not~~ exonerate the surety ~~unless, in~~
214 ~~the judgment of the court, a good and sufficient cause is~~
215 ~~given for the failure of the defendant to appear at the time~~
216 ~~the conditional judgement was entered.~~ No court costs shall be
217 entered on the surety. On a conditional forfeiture, defendants
218 who are their own sureties by posting their own cash, real
219 property, or personal recognizance bail shall be assessed
220 court costs upon a final forfeiture."

221 "§15-13-125

222 The clerk of the court having jurisdiction over the
223 defendant shall issue a bondsman's process to the sureties on
224 ~~such~~ the bail upon their request. The request may be made by



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225 any one of the sureties. Before the issuance of the process,
226 the clerk shall determine if the case is still open and the
227 defendant and the sureties have not been discharged by law. A
228 surety shall not be charged for the bondsman's process or for
229 a certified copy of the bond."

230 "§15-13-128

231 The following shall be substantially the form to be
232 used for a bondsman's process. BONDSMAN'S PROCESS STATE OF
233 ALABAMA

234 COUNTY OF _____.

235 (or)

236 CITY OF _____.

237 WHEREAS, the Sureties on the bail of the defendant
238 _____, in case number _____, have expressed their desire to
239 surrender the defendant to the custody of _____ of (City or
240 County), Alabama, and such desire has been expressed to the
241 clerk of the _____ Court of the City/County of _____, Alabama,
242 and,

243 WHEREAS, the clerk has checked the records and case
244 number _____ is still pending and the defendant nor his or her
245 sureties have been discharged of their obligations, or the
246 records of case number _____ reflect that the defendant has
247 failed to appear on the obligation of bail as required and a
248 warrant has been issued for the arrest of the defendant.

249 NOW, THEREFORE, this document is issued, as required by
250 law, and the document gives the right to the Sureties
251 (bondsmen) to arrest the defendant, _____ at any place in the
252 State of Alabama, or the sureties may authorize another person



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253 to arrest the defendant by an endorsement in writing on this
254 document or attached to this document and the surety or
255 bondsman shall forthwith, after the arrest, take the defendant
256 to the _____ jail of _____, custodian thereof.

257 Executed this _____ day of _____, 20__.

258 _____ CLERK OF COURT

259 SEAL:

260 Bondsman Return

261 On this _____ day of _____, 20__, I _____
262 agent for _____ surrender the above named defendant to
263 the _____ jail of _____.

264 Time: _____

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

266 "§15-13-131

267 (a) When a defendant fails to appear in court as
268 required by the undertaking of bail and no sufficient excuse
269 has been provided to the court prior to the hearing, the court
270 shall order a conditional forfeiture and show cause order
271 against the defendant and the sureties of the bail. The court
272 shall notify defendant and sureties of the order as set out in
273 this article. The defendant or sureties, or both, shall file a
274 written response with the clerk of the court within ~~28~~ 45 days
275 ~~of~~ after the date of service of the notice why the bond should
276 not be forfeited. If a written response is filed within the
277 time allowed and the court is of the opinion the written
278 response is sufficient, the court shall set aside the
279 conditional forfeiture. If the court is of the opinion the
280 written response is not sufficient, the court shall set a



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281 hearing to determine whether the bond should be forfeited. The
282 hearing shall not be set less than ~~90~~ 120 days ~~of~~ after the
283 service of the conditional forfeiture order. If no written
284 response has been filed after ~~28~~ 45 days from the date of
285 service of the notice, the court may enter an appropriate
286 order or final judgment forfeiting all or part of the amount
287 of the bond which shall be enforceable as any civil judgment.
288 The court may take into consideration the circumstances
289 provided to the court and continue any final forfeiture
290 hearing to another day and time allowing the sureties more
291 time to apprehend the defendant.

292 (b) When an undertaking of bail is forfeited by the
293 failure of the defendant to appear as required, except when
294 money is deposited as cash bail, a conditional judgment shall
295 be rendered by the court in favor of the state or its
296 subdivisions, for the use of the proper city, county, or
297 state, against the parties to the undertaking for the sum
298 thereon expressed, which judgment may be substantially as
299 follows:

300 (State of or City of) Charge: _____ vs Case No.
301 _____ A.B. _____ C.D. _____ E.F.
302 (Sureties) _____

303 It being known to the court that A.B., together with
304 (Sureties) _____, agreed to pay the State of Alabama (or City
305 of _____,) _____ dollars (the sum specified in the
306 undertaking), unless A.B. appeared at the time and place
307 mentioned and fixed in the bond or undertaking to answer in
308 this case and A.B. having failed to appear at the time and



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309 place mentioned in the bond or undertaking, it is therefore
310 ordered by the court that the State of Alabama (or City of
311 _____,) for the use of _____ State (or City), recover of the
312 defendant and sureties on the undertakings, the sum of _____
313 dollars (the sum specified in the undertaking), unless they
314 file a written response and show cause why this judgment
315 should not be made absolute within ~~28~~ 45 days ~~of~~ after the
316 date of service of this conditional forfeiture order.

317 (c) The state shall remit one-half of the funds it
318 receives under subsections (a) and (b) to the county in which
319 the defendant was charged. The funds shall be deposited into
320 the general fund of the county and used for the maintenance
321 and operation of the county jail."

322 "§15-13-132

323 A notice of the rendition of the judgment set forth in
324 Section 15-13-131 shall be issued by the clerk of the court
325 and served according to the terms as established in this
326 article within 90 days ~~of the court's conditional forfeiture~~
327 ~~order to the defendant and sureties. The notice may be in the~~
328 ~~following form~~ after the defendant's failure to appear in
329 court:

330 STATE OF ALABAMA _____ (or City of
331 _____) Defendant vs _____ County _____
332 SuretyCase No. _____ SuretyCharge:
333 _____ Conditional Forfeiture Notice To:
334 _____
335 CourtDefendant _____ Surety

336 You are hereby notified that your name appears as a



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337 surety on the bond in the above styled case. This case was
338 called for trial on _____ (date) and the defendant was not
339 present to answer. Therefore, a conditional forfeiture of
340 _____ dollars was entered against you.

341 You shall file a written response within ~~28~~ 45 days
342 after you receive this notice and show cause to the court why
343 this bond amount and the court cost incident to this
344 forfeiture should not be made final.

345 If no action on your part is taken ~~28~~ 45 days after the
346 date you receive this notice, a final forfeiture may be
347 entered against you by the court. The sheriff shall collect
348 the amount of the bond and court cost from you or levy on your
349 property to satisfy the forfeiture case. If you file a written
350 response and the court is of the opinion your written response
351 is not sufficient to set aside the conditional forfeiture,
352 then the court shall set a final forfeiture hearing date and
353 you will be notified at the address provided on the response.

354 This bond forfeiture is a court case against you
355 separate from the defendant's criminal case. The court has
356 also ordered that the defendant be re-arrested in the original
357 case.

358 Date issued: _____ By _____ Clerk "

359 "§15-13-134

360 A conditional forfeiture notice may be served by any
361 law enforcement officer, at the law enforcement office in the
362 same manner as a summons in a civil action, except that
363 service may not be by publication. At the law enforcement
364 officer's discretion and expense, the notice may be served by



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365 certified mail, requiring a signed receipt or some equivalent
366 thereof. In the event the notice is served by certified mail,
367 return of the receipt properly signed shall be prima facie
368 evidence of service. A surety may sign for the forfeiture with
369 the clerk of the court. The notice required by this subsection
370 ~~must~~ shall be returned by the ~~person~~ individual serving it,
371 with his or her proper return endorsed thereon, within
372 ~~twenty-eight~~ 45 days of the date of issuance or within five
373 days of service, whichever period of time is shorter."

374 "§15-13-136

375 In forfeiture cases where the clerk of the court has
376 failed to issue the conditional forfeiture notice as
377 stipulated in Section 15-13-132 and where there has been no
378 service as set out in Section 15-13-134 made within 90 days ~~of~~
379 after the ~~order of the court~~ defendant fails to appear as set
380 out in Section 15-13-131, and where the sureties have complied
381 with Section 15-13-133, then the sureties shall be discharged
382 from all liability of the bail and the conditional judgment
383 shall be set aside against ~~such~~ those sureties."

384 "§15-13-137

385 If the defendants appear and show sufficient cause for
386 the default to be determined by the court, the conditional
387 judgment shall be set aside. If the excuse is not sufficient,
388 or if the defendant or sureties fail to appear at the final
389 forfeiture hearing, the judgment ~~shall~~ may be made absolute
390 for the entire sum expressed in the undertaking, or any
391 portion thereof according to the circumstances."

392 "§15-13-138



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393 (a) The court shall set aside the conditional
394 forfeiture in its entirety for the following reasons or under
395 the following circumstances:

396 (1) If the sureties can show that the defendant was
397 hospitalized at the time he or she was to appear in court, or
398 if the sureties can produce sufficient evidence that the
399 defendant was not able to attend court for reason of illness,
400 by producing a doctor's certificate or letter to that effect.
401 The hospitalization may be in or out of ~~the State of Alabama~~
402 this state. For the sureties to take advantage of this
403 ~~provision~~ subdivision, they shall put the court on notice that
404 the situation exists either prior to the issuance of the
405 conditional forfeiture order or within ~~28~~ 45 days after legal
406 service of the conditional forfeiture on the sureties. After
407 receiving notice, the court may continue the case to a future
408 date it deems proper and just for the defendant to appear. If
409 at that time the defendant is still not able to attend court
410 for the same reason, then it shall be the burden of the
411 sureties to produce the evidence within the same prescribed
412 time. This section ~~shall~~ does not bar the court from the
413 issuance of a bench warrant for the defendant in cases where
414 the court feels that documents of proof do not reflect the
415 truth, or where the court has reason to believe the defendant
416 may appear and he or she is using ~~such~~ the documents of proof
417 as an excuse to avoid appearance.

418 (2) If the sureties show that the defendant was
419 confined in jail or in the custody of another jurisdiction in
420 ~~the State of Alabama~~ this state or any other state, at the



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421 time of his or her original appearance or on the date of the
422 issuance of the conditional forfeiture order, or if the surety
423 shows that the defendant is still confined in any jail in ~~the~~
424 ~~State of Alabama~~ this state or any other state, or in the
425 custody of another jurisdiction within ~~the State of Alabama~~
426 this state or any other state, or in the custody of another
427 jurisdiction within the continental United States, including
428 United States federal jurisdiction, the court shall set aside
429 the conditional forfeiture and continue the case until a time
430 after the end of that confinement. If the court later learns
431 that the defendant is free from confinement before the
432 confinement was supposed to end, then the court, with notice
433 to the sureties, may reset the case and the burden shall be on
434 the sureties to produce the defendant for the hearing or the
435 court may issue another conditional forfeiture.

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

437 (4) If the sureties show the defendant was serving on
438 active duty in one of the military services of the United
439 States.

440 (b) If the surety requests that a defendant who has
441 failed to appear be entered into NCIC, and the governing
442 authorities refuse to honor the request or the defendant is
443 arrested outside of the state and the governing authorities
444 decline to proceed with extradition, the surety shall be
445 discharged. A surety shall be notified by the district
446 attorney in writing of a defendant's arrest outside of the
447 state within seven days of the arrest. The defendant may be
448 charged the cost of extradition and those costs may be added



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449 to court costs."

450 "§15-13-139

451 In forfeiture cases where the sureties have paid the
452 amount of the forfeiture into the court or in cases where the
453 forfeiture has been made final or absolute and there is no
454 further litigation pending on the forfeiture, and the surety
455 locates the defendant and causes the return of the defendant
456 to the custody of the court where the bond was forfeited, and
457 if the defendant was substantially procured by actions of the
458 surety, and the administration of justice has not been
459 thwarted nor the successful prosecution of the defendant has
460 been affected, then the court which ordered the forfeiture,
461 shall have full power and jurisdiction in all proceedings
462 conducted pursuant to this article and within a period of ~~six~~
463 ~~months~~ one year from the date of issuance of any final
464 forfeiture judgment, to consider any costs to the state or its
465 subdivisions which resulted as a cause of the default, if any,
466 and upon giving consideration thereto, may, in the court's
467 discretion, remit the whole of the penalty of the bail, or
468 undertaking, or any portion thereof, which is in excess of any
469 costs to the state or its subdivisions, and render a new final
470 judgment against the sureties appearing upon the bail bond or
471 undertaking. In forfeiture cases, if the judgment has been
472 paid into the State Treasury or ~~Municipal Treasury~~ a municipal
473 treasury, the court may issue an order to the custodian of the
474 treasury to make a refund to the sureties."

475 "§15-13-140

476 Reasons for default shall be heard by the court on



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477 application, at any time when not engaged in other business.
478 When a conditional judgment is set aside for sufficient cause,
479 no cost shall be imposed on the sureties. This ~~provision~~
480 section has no application where money is deposited instead of
481 bail. Sureties may appear before the courts of this state or
482 its subdivisions to answer any "show cause order," conditional
483 or final forfeiture to give any reasons for default, to
484 present any defense to the default, and for any other purpose
485 of informing the courts about information relating to the
486 appearance or non-appearance of the defendant on the bail of
487 which they are surety. If the surety is a professional surety
488 company or professional bail company then any agent or
489 representative of the professional surety company or
490 professional bail company may appear for the same purposes. A
491 professional bail bondsman may file motions, answers, and
492 notices related to a defendant currently out on bond with the
493 professional bail bondsman."

494 "§15-13-141

495 In all cases where a conditional forfeiture has been
496 made final by any court of the state or any of its
497 subdivisions and there has been no further action or request
498 filed with the court, appeal taken, ~~application to the State~~
499 ~~Pardons and Paroles Board,~~ or any other litigation of which
500 the court has knowledge has been filed by the surety with the
501 court within 30 days to the clerk of the court of the entry or
502 order of the final judgment and the same has not been paid
503 within 30 days to the clerk of the court, then the clerk shall
504 refuse to accept and approve any bonds from the surety as



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505 being insufficient. The clerk shall notify all persons
506 authorized to accept and approve bonds returnable to the court
507 of the action and they shall no longer accept or approve
508 surety on bonds until notified otherwise by the clerk. The
509 clerk shall also notify the circuit clerk of the county who
510 shall notify all other clerks of any courts in the county in
511 writing and the clerks shall refuse to accept or approve any
512 other bonds of the surety and shall notify the other
513 authorized persons having the authority to approve and accept
514 bail returnable to their courts of the action and they shall
515 no longer accept or approve the surety on bail until otherwise
516 notified by the clerk. Refusal by the clerks shall be in
517 writing and shall be known as a "clerk's revocation of
518 surety."

519 "§15-13-145

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

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

525 (2) The person has not been convicted of a previous
526 felony or committed a felony while being released on any form
527 of bail.

528 (3) The person is not presently under a suspended
529 sentence or on probation or parole for a previous conviction
530 on a misdemeanor or a felony.

531 (4) There is no evidence, satisfactory to the judicial
532 officer, that the person has violated a previous bail release,



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533 whether it be judicial public bail, property, cash, ~~or~~
534 professional surety bail, or failure to appear."

535 "§15-13-159

536 No professional surety company shall execute or become
537 surety on any appearance bond in this state, unless it has an
538 order granting authorization to become professional surety on
539 any bail. The order granting the authorization shall be
540 reissued annually, prior to January 1 of each year, by the
541 presiding circuit judge of the county in which the company
542 desires to execute bail or appearance bonds. Prior to the
543 judge's issuance of the original order and no later than
544 December 1 of each year, thereafter, professional surety
545 companies shall submit annually to the presiding circuit judge
546 the following:

547 (1) An original or certified copy of a certificate of
548 authority or certificate of compliance from the Department of
549 Insurance reflecting that the company is qualified to write a
550 bail line of insurance and that the company is in good
551 standing with the department.

552 (2) An original qualifying power of attorney issued by
553 the professional surety company, specifying any applicable
554 limitations and the names of the agents that may execute and
555 bind the company to a bail undertaking. The qualifying power
556 of attorney shall not name any company, corporation, or other
557 entity as an agent except a person as defined as a
558 professional bondsman in Division 1, Section 15-13-100 of this
559 chapter, and that person shall be an agent of the company
560 licensed with the Department of Insurance.



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561 (3) A copy of the license issued by the Department of
562 Insurance of each agent who is named in or appointed by the
563 qualifying power of attorney in subdivision (2) or a letter or
564 other documentation from the department indicating that the
565 appointed agents are temporarily licensed as agents of the
566 professional surety company for those lines of insurance.

567 (4) An affidavit or certification in writing, under
568 oath, executed by a licensed agent of the professional surety
569 company who is the manager or an owner or president of a
570 corporation, company, partnership, or other entity that
571 represents the professional surety company, filed with the
572 clerk of the circuit court of each county in which the
573 professional surety company executes or becomes surety on
574 appearance bonds, stating the following:

575 a. That all appearance bonds shall be executed in the
576 name of the professional surety company as surety by the
577 agents listed or appointed in the qualifying power of attorney
578 presented to the court or any other qualifying powers of
579 attorney filed with the circuit clerk of the county.

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

583 c. That any agency, company, corporation, or other
584 entity that represents the professional surety company in the
585 county, has no owners or other persons having a direct or
586 indirect financial interest in such agency, company,
587 corporation, or other entity, that have been convicted of a
588 felony or a crime involving moral turpitude. If any person



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589 having a direct or indirect financial interest in such agency,
590 company, corporation, or other entity has been convicted of a
591 felony or a crime involving moral turpitude, then the
592 affidavit or certification shall certify that there has been
593 such conviction, providing the name of the person convicted,
594 and certify that the person convicted has been pardoned or has
595 had a restoration of civil rights.

596 d. That the professional surety company has no
597 knowledge of forfeitures that have been final for more than 30
598 days that have not been paid to the clerk of the court arising
599 out of surety undertaking, and that the professional surety
600 company has no petitions, motions, or other litigation matters
601 pending.

602 e. That no agents of the professional surety company
603 who have the authority to execute appearance bonds in its
604 behalf or any person having a financial interest, direct or
605 indirect, in the ownership or management of any agency,
606 company, corporation, or other entity that represents the
607 professional surety company in the execution of appearance
608 bonds, is an attorney, a judicial official, a person
609 authorized to accept an appearance bond, or an agent of an
610 attorney, judicial official, or person authorized to accept an
611 appearance bond.

612 f. The names and addresses of all persons, officers,
613 employees, and agents of the agency, company, corporation, or
614 other entity that represents the professional surety company
615 becoming surety on appearance bonds who have a direct or
616 indirect financial interest in the agency, company,



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617 corporation, or other entity representing the professional
618 surety company and the nature and extent of each interest.

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

623 (5) A copy of the license issued by the Alabama
624 Professional Bail Bonding Board pursuant to the Alabama Bail
625 Bond Regulatory Act, Article 8, commencing with Section
626 15-13-200."

627 "§15-13-160

628 (a) No professional bail company shall execute or
629 become surety on any appearance bond in this state, unless ~~it~~
630 the company has an order granting authorization to become
631 professional surety on any bail. The order granting
632 authorization shall be reissued annually prior to January 1 of
633 each year by the presiding circuit judge of the county in
634 which the company desires to execute bail or appearance bonds.
635 Prior to the judge's issuance of the original order and no
636 later than December 1 of each year, thereafter, professional
637 bail companies shall submit annually to the presiding circuit
638 judge the following:

639 (1) a. An original corporate surety bond or escrow
640 agreement, filed and approved by the presiding circuit judge
641 of the county in which the professional bail company executes
642 or becomes surety on appearance bonds, in the amount of
643 ~~\$25,000~~ twenty-five thousand dollars (\$25,000), guaranteeing
644 the payment of all sums of money that may become due by virtue



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645 of any judgment absolute that may be rendered against the
646 professional bail company on a forfeiture entered by any court
647 in the county. Corporate surety bonds shall be executed only
648 by a surety company authorized to do business in the ~~State of~~
649 ~~Alabama~~ this state and qualified to write bonds by the
650 Department of Insurance. The corporate surety bond shall
651 provide that it may be cancelled as to any future liability by
652 the corporate surety company or the professional bail company
653 giving 30 days prior written notice of the cancellation to the
654 clerk of the circuit court in which the bond or instrument was
655 filed. A bank in ~~the State of Alabama~~ this state shall be a
656 party to all escrow agreements, and those agreements shall
657 provide that the agreement may be cancelled as to any future
658 liability only by the professional bail company and bank
659 giving 30 days prior written notice of the cancellation to the
660 clerk of the circuit court in which the escrow agreement or
661 instrument is filed. Once a professional bail company has
662 filed an original continuous corporate surety bond or escrow
663 agreement with the circuit clerk and it has been approved by
664 the presiding circuit judge, then the professional bail
665 company does not have to file any other original continuous
666 corporate surety bond or escrow agreement upon annual
667 recertification. The professional bail company shall submit an
668 original certificate from the insurance company which executed
669 the corporate surety bond reflecting that it is still in force
670 or an original letter from the bank stating the escrow
671 agreement is still effective and the ~~moneys~~ monies are still
672 held in trust. When any professional bail company is annually



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673 recertifying, the circuit clerk shall send the original
674 corporate surety bond or original escrow agreement with any
675 cancellations received by the circuit clerk to the presiding
676 circuit judge for review and approval.

677 b. Any new original corporate surety bond or escrow
678 agreement made after the effective date of the act adding this
679 paragraph, in a county with a population of 200,000 or more,
680 shall require a surety bond or escrow agreement in the amount
681 of fifty thousand dollars (\$50,000). This paragraph does not
682 affect any corporate surety bond or escrow agreement made
683 before the effective date of the act adding this paragraph.
684 Current escrow agreements and corporate surety bonds shall
685 remain at twenty-five thousand dollars (\$25,000) for any
686 renewal thereafter.

687 (2) An original qualifying power of attorney, letter,
688 or other document issued by the professional bail company
689 specifying any applicable limitations and specifying the
690 agents who are authorized to execute and bind the professional
691 bail company to a bail undertaking or to appearance bonds. The
692 qualifying power of attorney, letter, or other document may
693 only name persons as agents.

694 (3) An original affidavit or certificate in writing,
695 under oath, executed by an owner or officer of a professional
696 bail company, to the clerk of the circuit court of the county
697 in which the professional bail company shall execute or become
698 surety on appearance bonds which contains all of the
699 following:

700 a. That all appearance bonds shall be executed in the



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701 name of the professional bail company as surety by the agents
702 listed or appointed in the qualifying power of attorney,
703 letter, or other document presented to the court or any other
704 person so named in any future qualifying powers of attorney,
705 letters, or documents filed with the circuit clerk of the
706 county.

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

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

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

714 Notwithstanding the foregoing, if any person having a direct
715 or indirect financial interest in the bonding business has
716 been convicted of a felony or a crime involving moral
717 turpitude, then the person making the certification shall
718 certify that there has been a conviction, provide the name of
719 the person convicted, and certify that the person convicted
720 has been pardoned or has had a restoration of civil rights.

721 e. That the professional bail company has no knowledge
722 of any forfeiture that has been made final for more than 30
723 days that has not been paid arising out of surety undertakings
724 and as to which the professional bail company has no
725 petitions, motions, or other litigation matters pending.

726 f. That there are no persons, including employees,
727 agents, or persons with a financial interest in the
728 professional bail company, who, within a period of two years,



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729 violated this chapter, or any rules adopted by the Supreme
730 Court governing the qualifications of professional surety or
731 bail companies.

732 g. That no employee, agent, or any other person having
733 a direct or indirect financial interest in the professional
734 bail company is an attorney, a judicial official, a person
735 authorized to accept an appearance bond, or an agent of an
736 attorney, judicial official, or person authorized to accept an
737 appearance bond.

738 h. The names and addresses of all officers, employees,
739 and agents of the professional bail company who have a direct
740 or indirect financial interest in the professional bail
741 company and the nature and extent of each interest.

742 (b) A professional bondsman may not own a professional
743 bail company until he or she has been licensed as a
744 professional bondsman for at least three years.

745 (c) If the owner of a professional bail company dies or
746 becomes completely incapacitated, as determined by the board,
747 his or her professional bail company may be sold to an
748 unlicensed individual. The unlicensed individual shall have 90
749 calendar days to obtain a license."

750 "§15-13-164

751 (a) Any person who becomes surety on any bail for a
752 defendant in this state and receives something of value or
753 charges a fee therefor, and who is not authorized as a
754 professional surety or bail company under this chapter shall
755 be guilty of a Class A misdemeanor and, upon conviction, shall
756 be sentenced in accordance with the laws of this state for



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757 such an offense.

758 (b) Any defendant or other individual who contracts
759 with a surety or court, who provides false information to the
760 court or to the sureties on any bail bond forms or contracts,
761 shall be guilty of a Class A misdemeanor and, upon conviction,
762 shall be sentenced in accordance with the laws of this state
763 for the offense.

764 (c) Any surety who exchanges sexual services in
765 exchange for bail bond services shall be guilty of a Class C
766 felony and, upon conviction, shall be sentenced in accordance
767 with the laws of this state for the offense."

768 Section 2. Although this bill would have as its purpose
769 or effect the requirement of a new or increased expenditure of
770 local funds, the bill is excluded from further requirements
771 and application under Section 111.05 of the Constitution of
772 Alabama of 2022, because the bill defines a new crime or
773 amends the definition of an existing crime.

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

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