

By: Senator(s) Carmichael

To: Insurance

SENATE BILL NO. 2677

1 AN ACT TO AMEND SECTION 83-39-3, MISSISSIPPI CODE OF 1972, TO
2 REQUIRE EXAMINATION OF APPLICANTS FOR SOLICITING BAIL AGENT AND
3 BAIL ENFORCEMENT AGENT LICENSES; AND FOR RELATED PURPOSES.

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

5 **SECTION 1.** Section 83-39-3, Mississippi Code of 1972, is
6 amended as follows:

7 83-39-3. (1) No person shall act in the capacity of
8 professional bail agent, soliciting bail agent or bail enforcement
9 agent, as defined in Section 83-39-1, or perform any of the
10 functions, duties or powers of the same unless that person shall
11 be qualified and licensed as provided in this chapter. The terms
12 of this chapter shall not apply to any automobile club or
13 association, financial institution, insurance company or other
14 organization or association or their employees who execute bail
15 bonds on violations arising out of the use of a motor vehicle by
16 their members, policyholders or borrowers when bail bond is not
17 the principal benefit of membership, the policy of insurance or of
18 a loan to such member, policyholder or borrower.



19 (2) (a) No license shall be issued or renewed except in
20 compliance with this chapter, and none shall be issued except to
21 an individual. No firm, partnership, association or corporation,
22 as such, shall be so licensed. No professional bail agent shall
23 operate under more than one (1) trade name. A soliciting bail
24 agent and bail enforcement agent shall operate only under the
25 professional bail agent's name. No license shall be issued to or
26 renewed for any person who has ever been convicted of a felony or
27 any crime involving moral turpitude or who is under twenty-one
28 (21) years of age. No person engaged as a law enforcement or
29 judicial official or attorney shall be licensed hereunder. A
30 person who is employed in any capacity at any jail or corrections
31 facility that houses state, county or municipal inmates who are
32 bailable, whether the person is a public employee, independent
33 contractor, or the employee of an independent contractor, may not
34 be licensed under this section.

35 (b) (i) No person who is a relative of either a sworn
36 state, county or municipal law enforcement official or judicial
37 official, or an employee, independent contractor or the
38 contractor's employee of any police department, sheriff's
39 department, jail or corrections facility that houses or holds
40 federal, state, county or municipal inmates who are bailable,
41 shall write a bond in the county where the law enforcement entity
42 or court in which the person's relative serves is located.
43 "Relative" means a spouse, parent, grandparent, child, sister,



brother, or a consanguineous aunt, uncle, niece or nephew.

Violation of this prohibition shall result in license revocation.

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

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

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

(4) Each license issued hereunder shall expire biennially on the last day of September, unless revoked or suspended prior thereto by the department, or upon notice served upon the commissioner by the insurer that the authority of a limited surety agent to act for or in behalf of such insurer had been terminated, or upon notice served upon the commissioner that the authority of a soliciting bail agent or bail enforcement agent had been terminated by such professional bail agent. A soliciting bail



69 agent or bail enforcement agent may, upon termination by a
70 professional bail agent or upon his cessation of employment with a
71 professional bail agent, be relicensed without having to comply
72 with the provisions of subsection (7)(a) of this section, if he
73 has held a license in his respective license category within
74 ninety (90) days of the new application, meets all other
75 requirements set forth in Section 83-39-5 and subsection (7)(b) of
76 this section, and notifies the previous professional bail agent in
77 writing that he is submitting an application for a new license.
78 Licenses shall expire on the last day of September of each
79 odd-numbered year.

80 (5) The department shall prepare and deliver to each
81 licensee a license showing the name, address and classification of
82 such licensee, and shall certify that the person is a licensed
83 professional bail agent, being designated as a personal surety
84 agent or a limited surety agent, a soliciting bail agent or a bail
85 enforcement agent. In addition, the license, if for a soliciting
86 bail agent or bail enforcement agent, shall show the name of the
87 professional bail agent and any other information as the
88 commissioner deems proper.

89 (6) The commissioner, after a hearing under Section
90 83-39-17, may refuse to issue a privilege license for a soliciting
91 bail agent to change from one (1) professional bail agent to
92 another if he owes any premium or debt to the professional bail
93 agent with whom he is currently licensed. The commissioner, after



94 a hearing under Section 83-39-17, shall refuse to issue a license
95 for a limited surety agent if he owes any premium or debt to an
96 insurer to which he has been appointed. If a license has been
97 granted to a limited surety agent or a soliciting bail agent who
98 owed any premium or debt to an insurer or professional bail agent,
99 the commissioner, after a hearing under Section 83-39-17, shall
100 revoke the license.

101 (7) (a) Before the issuance of any initial professional
102 bail agent, soliciting bail agent or bail enforcement agent
103 license, the applicant shall submit proof of successful completion
104 of forty (40) classroom hours of prelicensing education approved
105 by the Professional Bail Agents Association of Mississippi, Inc.,
106 and conducted by persons or entities approved by the Professional
107 Bail Agents Association of Mississippi, Inc. The hours required
108 by this subsection shall be classroom hours and may not be
109 acquired through correspondence or over the Internet. Any
110 applicant who has been properly licensed under this chapter within
111 ninety (90) days of submitting an application for a different
112 license type shall not be subject to the prelicensing education
113 requirement.

114 (b) Beginning July 1, 2013, all applicants for a
115 soliciting bail agent or bail enforcement agent license shall
116 successfully complete a limited examination by the department for
117 the restricted lines of business.



(* * *c) Beginning on July 1, 2011, in order to assist the department in determining an applicant's suitability for a license under this chapter, the applicant shall submit a set of fingerprints with the submission of an application for license. The department shall forward the fingerprints to the Department of Public Safety for the purpose of conducting a criminal history record check. If no disqualifying record is identified at the state level, the fingerprints shall be forwarded by the Department of Public Safety to the Federal Bureau of Investigation for a national criminal history record check. Fees related to the criminal history record check shall be paid by the applicant to the commissioner and the monies from such fees shall be deposited in the special fund in the State Treasury designated as the "Insurance Department Fund."

(8) (a) Before the renewal of the license of any professional bail agent, soliciting bail agent or bail enforcement agent, the applicant shall submit proof of successful completion of continuing education hours as follows:

(i) There shall be no continuing education required for the first year of an original license;

(ii) Except as provided in subparagraph (i), eight (8) classroom hours of continuing education for each year or part of a year of the two-year license period, for a total of sixteen (16) hours per license period.



(b) If an applicant for renewal failed to obtain the required eight (8) hours for each year of the license period during the actual license year in which the education was required to be obtained, the applicant shall not be eligible for a renewal license but shall be required to obtain an original license and be subject to the education requirements set forth in subsection (7). The commissioner shall not be required to comply with Section 83-39-17 in denying an application for a renewal license under this paragraph (b).

(c) The education hours required under this subsection (8) shall consist of classroom hours approved by the Professional Bail Agents Association of Mississippi, Inc., and provided by persons or entities approved by the Professional Bail Agents Association of Mississippi, Inc. The hours required by this subsection shall be classroom hours and may not be acquired through correspondence or over the Internet.

(d) The continuing education requirements under this subsection (8) shall not be required for renewal of a professional bail agent license for any applicant who is sixty-five (65) years of age and who has been licensed as a professional bail agent for a continuous period of twenty (20) years immediately preceding the submission of the application as evidenced by submission of an affidavit, under oath, on a form prescribed by the department, signed by the licensee attesting to satisfaction of the age, licensing, and experience requirements of this paragraph (d).



(9) No license as a professional bail agent shall be issued unless the applicant has been duly licensed by the department as a soliciting bail agent for a period of three (3) consecutive years immediately preceding the submission of the application. However, this subsection (9) shall not apply to any person who was licensed as a professional bail agent before July 1, 2011.

(10) A nonresident person may be licensed as a professional bail agent, bail soliciting agent or bail enforcement agent if:

(a) The person's home state awards licenses to residents of this state on the same basis; and

(b) The person has satisfied all requirements set forth in this chapter.

SECTION 2. This act shall take effect and be in force from and after July 1, 2013.

