

1 HB345
2 149108-1
3 By Representative England
4 RFD: Judiciary
5 First Read: 26-FEB-13

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8 SYNOPSIS: Under existing law, a professional bail
9 company may arrest a defendant who fails to appeal
10 for trial upon a certified copy of the undertaking
11 of bail or another person may be authorized to
12 arrest the defendant.

13 This bill would provide that, in order to
14 obtain a certified copy of the undertaking, a
15 professional bail company must submit a sworn
16 affidavit to the court clerk setting out the
17 violations of the defendant and would provide that
18 false statements on the affidavit would constitute
19 perjury in the third degree.

20 This bill would provide that only employees,
21 agents, or persons with a financial interest in the
22 professional bail company who have made the
23 certifications or are listed on the certifications
24 provided by law may arrest a defendant on a
25 certified copy of the undertaking.

26 This bill would require the assessment of a
27 fee of \$50 for each certified copy of the

1 undertaking and would specify how the fee is to be
2 distributed.

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

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

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

1 To amend Section 15-13-62, Code of Alabama 1975,
2 relating to exoneration of bail and the arrest of defendants,
3 to require a professional bail company to submit a sworn
4 affidavit to the court clerk setting out the violations of the
5 defendant in order to obtain a certified copy of the
6 undertaking; to provide that false statements on the affidavit
7 would be perjury in the third degree; to provide that only
8 employees, agents, or persons with a financial interest in the
9 professional bail company who have made the certifications or
10 are listed on the certifications provided by law may arrest a
11 defendant on a certified copy of the undertaking; to provide
12 for a fee for each certified copy of the undertaking; to
13 provide for the disbursement of the fee; and in connection
14 therewith would have as its purpose or effect the requirement
15 of a new or increased expenditure of local funds within the
16 meaning of Amendment 621 of the Constitution of Alabama of
17 1901, now appearing as Section 111.05 of the Official
18 Recompilation of the Constitution of Alabama of 1901, as
19 amended.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. Section 15-13-62, Code of Alabama 1975,
22 is amended to read as follows:

23 "§15-13-62.

24 "(a) Bail may, at any time before a conditional
25 judgment is entered against them, exonerate themselves by
26 surrendering the defendant; ~~and for that purpose,~~ . In order
27 to obtain a certified copy of the undertaking, the

1 professional bail company shall submit a sworn affidavit to
2 the court clerk setting out the violations of the defendant.
3 Upon receiving the certified copy of the undertaking, they a
4 person authorized pursuant to subsection (b) may arrest the
5 defendant on a certified copy of the undertaking at any place
6 in the state, or may authorize another person to arrest him by
7 an endorsement in writing on such copy. Any false statement
8 set out in the sworn affidavit to the presiding judge is a
9 violation of Section 13A-10-103.

10 "(b) Only employees, agents, or persons with a
11 financial interest in the professional bail company who have
12 made the certifications or are listed on the certifications
13 provided in Section 15-13-160 may make an arrest.

14 "(c) (1) A fee of fifty dollars (\$50) shall be
15 assessed for each certified copy of the undertaking to be
16 distributed on an annual basis as follows:

17 "a. Ten percent to the county general fund to be
18 earmarked and distributed to the Sheriff's Fund, administered
19 by the sheriff, in the county where the annual certification
20 was filed.

21 "b. Forty-five percent to the circuit clerk's fund
22 in the county where the annual certification was filed.

23 "c. Forty-five percent to the Solicitor's Fund in
24 the county where the annual certification was filed.

25 "(2) The records regarding the fees collected shall
26 be audited by the Department of Examiners of Public Accounts."

1 Section 2. Although this bill would have as its
2 purpose or effect the requirement of a new or increased
3 expenditure of local funds, the bill is excluded from further
4 requirements and application under Amendment 621, now
5 appearing as Section 111.05 of the Official Recompilation of
6 the Constitution of Alabama of 1901, as amended, because the
7 bill defines a new crime or amends the definition of an
8 existing crime.

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