

By: Representative Rogers (61st)

To: Judiciary B

HOUSE BILL NO. 749

1 AN ACT TO AMEND SECTION 83-39-3, MISSISSIPPI CODE OF 1972, TO
2 REVISE TESTING REQUIREMENTS FOR LICENSING BAIL AGENTS; AND FOR
3 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,



44 brother, or a consanguineous aunt, uncle, niece or nephew.
45 Violation of this prohibition shall result in license revocation.

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

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

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

61 (4) Each license issued hereunder shall expire biennially on
62 the last day of September, unless revoked or suspended prior
63 thereto by the department, or upon notice served upon the
64 commissioner by the insurer that the authority of a limited surety
65 agent to act for or in behalf of such insurer had been terminated,
66 or upon notice served upon the commissioner that the authority of
67 a soliciting bail agent or bail enforcement agent had been
68 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. All applicants for a
108 soliciting bail agent or bail enforcement agent license applying
109 for such license after July 1, 2013, shall successfully complete a
110 limited examination by the department for the restricted lines of
111 business. The hours required by this subsection shall be
112 classroom hours and may not be acquired through correspondence or
113 over the Internet. Any applicant who has been properly licensed
114 under this chapter within ninety (90) days of submitting an
115 application for a different license type shall not be subject to
116 the prelicensing education requirement.

117 (b) Beginning on July 1, 2011, in order to assist the
118 department in determining an applicant's suitability for a license



119 under this chapter, the applicant shall submit a set of
120 fingerprints with the submission of an application for license.
121 The department shall forward the fingerprints to the Department of
122 Public Safety for the purpose of conducting a criminal history
123 record check. If no disqualifying record is identified at the
124 state level, the fingerprints shall be forwarded by the Department
125 of Public Safety to the Federal Bureau of Investigation for a
126 national criminal history record check. Fees related to the
127 criminal history record check shall be paid by the applicant to
128 the commissioner and the monies from such fees shall be deposited
129 in the special fund in the State Treasury designated as the
130 "Insurance Department Fund."

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

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

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

141 (b) If an applicant for renewal failed to obtain the
142 required eight (8) hours for each year of the license period
143 during the actual license year in which the education was required



144 to be obtained, the applicant shall not be eligible for a renewal
145 license but shall be required to obtain an original license and be
146 subject to the education requirements set forth in subsection (7).
147 The commissioner shall not be required to comply with Section
148 83-39-17 in denying an application for a renewal license under
149 this paragraph (b).

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

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

166 (9) No license as a professional bail agent shall be issued
167 unless the applicant has been duly licensed by the department as a
168 soliciting bail agent for a period of three (3) consecutive years



169 immediately preceding the submission of the application. However,
170 this subsection (9) shall not apply to any person who was licensed
171 as a professional bail agent before July 1, 2011.

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

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

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

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

