

1 HB703
2 140658-4
3 By Representative Galliher
4 RFD: Ways and Means General Fund
5 First Read: 17-APR-12

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8 SYNOPSIS: Under existing law, a defendant is released
9 on bail after posting bond and a bonding company
10 charges a fee for assisting a defendant with bail.

11 This bill would require a bail bond filing
12 fee on each bond executed to be paid by the
13 bondsman or surety and a fee on all bonds to be
14 paid by the bondee with the fees to be distributed
15 to the court clerk's fund, the law enforcement fund
16 of the sheriff or municipality, the Solicitor's
17 Fund, the State General Fund, and the Alabama
18 Department of Forensic Sciences.

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20 A BILL
21 TO BE ENTITLED
22 AN ACT

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24 To provide for bail bond fees in certain amounts; to
25 exempt bonds for certain traffic violations from the fees; to
26 require the defendant to pay the fees; to provide for the

1 clerks of the various courts to collect the fees; and to
2 provide for distribution of the fees.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. (a) (1) In addition to all other charges,
5 costs, taxes, or fees levied by law on bail bonds, additional
6 fees as detailed in paragraph a. and paragraph b. shall be
7 imposed on every bail bond posted in all courts of this state,
8 except for the bail bonds posted for nonmoving traffic or
9 speeding violations. The fees shall be assessed as follows:

10 a. A filing fee in the amount of thirty-five dollars
11 (\$35) on each bond executed pursuant to this act.

12 b. For a misdemeanor offense a bail bond fee in the
13 amount of 3.5 percent of the total face value of the bail bond
14 or one hundred dollars (\$100), whichever is greater, but not
15 to exceed four hundred fifty dollars (\$450). For a felony
16 offense a bail bond fee of 3.5 percent of the total face value
17 of the bail bond or one hundred fifty dollars (\$150),
18 whichever is greater, but not to exceed seven hundred fifty
19 dollars (\$750) of the face value of bond. Except that if a
20 person is released for a felony or misdemeanor on a judicial
21 public bail, recognizance, or signature bond the fee shall be
22 affixed at twenty-five dollars (\$25). For purposes of this
23 act, face value of bond shall mean the bond amount set by
24 court or other authority at release, not the amount posted at
25 release of bail.

26 (2) The fees assessed pursuant to this section are
27 required whether the release from confinement or admittance to

1 bail is based on cash, judicial public bail, personal
2 recognizance, an appearance bond, appeal bond, a secured
3 appearance bond utilizing security, a bond executed by a
4 professional surety company, or a professional bail company
5 using professional bondsmen, or if the defendant is released
6 by the court or by any other authority or procedure.

7 (b) The fee imposed in paragraph a. of subdivision
8 (1) of subsection (a) shall be collected at the execution of
9 the bond or the earliest possible time, but not later than
10 close of business on the next business day. This fee shall be
11 paid by the bondsman, surety, guaranty, or individual who
12 signs the bail bond. Upon the failure to pay the fee by the
13 specified date, the bondsman, surety, guaranty, or individual
14 required to pay the fee shall be held in contempt of court and
15 shall be punished by a fine of not less than five hundred
16 dollars (\$500) in addition to the fee imposed in paragraph a.
17 of subdivision (1) of subsection (a). The fine imposed shall
18 not be remitted, waived, or reduced unless the person fined
19 can show cause that he or she cannot pay the fine in the
20 reasonably foreseeable future. If the offense is a release on
21 own recognizance, judicial public bail, or non-custodial
22 offense pursuant to Rule 20 of the Alabama Rules of Judicial
23 Administration, the fee shall be assessed at the time of
24 adjudication or at the time that any other fees and costs are
25 assessed.

26 (c) (1) The fee imposed on bail bonds under paragraph
27 b. of subdivision (1) of subsection (a) shall be imposed by

1 the court when the defendant appears in court for adjudication
2 or sentencing.

3 (2) If the bail bond has been secured by cash, the
4 conditions of release have been performed, and the defendant
5 has been discharged from all obligations of the bond, the
6 clerk of the court shall retain as the bail bond fee the
7 amount pursuant to paragraph b. of subdivision (1) of
8 subsection (a) and disburse the remainder as provided by law.

9 (3) If the property bail bond has been secured by
10 real property or chattel, the conditions of release have been
11 performed and the defendant has been discharged or released
12 from all obligations of the bond, then the bond shall be
13 reduced to the bail bond fee amount pursuant to paragraph b.
14 of subdivision (1) of subsection (a) and the real property or
15 chattel shall not be discharged or released by the court until
16 the bail bond fee pursuant to paragraph b. of subdivision (1)
17 of subsection (a) has been paid in full.

18 (4) The fees shall be collected pursuant to
19 paragraph b. of subdivision (1) of subsection (a) by the clerk
20 of the court. The fees shall not be remitted, waived, or
21 reduced unless the defendant proves to the reasonable
22 satisfaction of the presiding judge or sentencing judge that
23 the defendant is not capable of paying the same within the
24 reasonably foreseeable future. The fees shall not be remitted,
25 waived, or reduced unless all other costs, fees, and charges
26 of court are remitted or waived.

1 (5) The fees shall not reduce or affect the funds
2 allocated to the office of the court clerk, the sheriff, the
3 municipality, the district attorney, or the Alabama Department
4 of Forensic Sciences under any local act or other funding
5 mechanism under the law. These funds shall be in addition to
6 and not in lieu of any funds currently available to the office
7 of the court clerk, sheriff, municipality, the district
8 attorney, and the Alabama Department of Forensic Sciences.

9 (d) The court clerks shall distribute on a monthly
10 basis as other fees are distributed, the fees collected
11 pursuant to paragraph a. of subdivision (1) of subsection (a)
12 as follows: Ten percent from each fee shall be distributed
13 either to the county general fund to be earmarked and
14 distributed to the Sheriff's Fund in the county where the bond
15 was executed or, where the bond is executed by the
16 municipality, to the municipality; 45 percent of the fee to
17 the court clerk's fund where the bond was executed; 45 percent
18 of the fee to the Solicitor's Fund in the county where the
19 bond was executed. The bail bond fee records shall be audited
20 by the Department of Examiners of Public Accounts.

21 (e) The court clerks shall distribute on a monthly
22 basis as other fees are distributed, the fees collected
23 pursuant to paragraph b. of subdivision (1) of subsection (a)
24 as follows: Seventeen dollars (\$17) from each fee shall be
25 distributed to the county general fund to be earmarked and
26 distributed to the Sheriff's Fund in the county where the bond
27 was executed or, where the bond was executed by a

1 municipality, to the municipality; 35 percent of the remainder
2 of the fee to the court clerk's fund where the bond was
3 executed; 35 percent of the remainder of the fee to the
4 Solicitor's Fund in the county where the bond was executed; 20
5 percent to the State General Fund and 10 percent to the
6 Alabama Forensic Services Trust Fund. The bail bond fee
7 records shall be audited by the Department of Examiners of
8 Public Accounts.

9 Section 2. (a) The fee allocated to the Solicitor's
10 Fund shall be expended for the payment of any and all expenses
11 incurred by the district attorney in the discharge of the
12 duties of the office or for any legitimate law enforcement
13 purpose.

14 (b) The fee allocated for the court clerk's fund
15 shall be expended at the discretion of the clerk, to support
16 the functions of the office of the clerk.

17 (c) The fees allocated to the sheriff's fund shall
18 be expended at the discretion of the sheriff or for any
19 legitimate law enforcement purpose to be utilized in the
20 discharge of his or her duty.

21 (d) The fees allocated to the Alabama Forensic
22 Services Trust Fund shall be expended for the objective
23 analysis of scientific evidence in pending criminal
24 investigations.

25 Section 3. If the charge against a defendant in a
26 case is disposed of by a finding of not guilty, the fees
27 imposed in the case pursuant to paragraph b. of subdivision

1 (1) of subsection (a) of Section 1 shall not be imposed. In
2 all other cases wherein the charge against a defendant is
3 disposed of by other than a finding of guilty, including, but
4 not limited to, dismissal or the entry of nolle prosequi, the
5 fees pursuant to paragraph b. of subdivision (1) of subsection
6 (a) of Section 1 may be assessed by agreement of the parties.

7 Section 4. The provisions of this act are severable.
8 If any part of this act is declared invalid or
9 unconstitutional, that declaration shall not affect the part
10 which remains.

11 Section 5. All laws or parts of laws which conflict
12 with this act are repealed only to the extent they are in
13 direct conflict with the provisions of this act.

14 Section 6. This act shall become effective on the
15 first day of the third month following its passage and
16 approval by the Governor, or its otherwise becoming law.