

1 SB384
2 167282-1
3 By Senators Waggoner and Smitherman
4 RFD: Judiciary
5 First Read: 16-APR-15

2
3
4
5
6
7
8 SYNOPSIS: Under existing law, a bail bondsman must be
9 approved as either a professional surety company or
10 professional bail company and be approved by the
11 presiding circuit judge of each county in which the
12 bail bondsman desires to operate.

13 This bill would create the Alabama Bail Bond
14 Regulatory Act to require professional bondsmen and
15 recovery agents to register with the Alabama
16 Professional Bail Bonding Board, created under the
17 act.

18 This bill would provide for the membership
19 and duties of the board, would provide procedures
20 for licensure applications, would specify
21 qualifications for licensure, and would provide
22 criminal penalties for making false statements to
23 the board.

24 This bill would also provide for the
25 suspension and revocation of licenses and would
26 require licensees to complete continuing
27 professional education.

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

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

21
22 A BILL

23 TO BE ENTITLED

24 AN ACT

25
26 Relating to bail bonds; to require professional
27 bondsmen and recovery agents to register with the Alabama

1 Professional Bail Bonding Board; to create the board; to
2 provide for the membership and duties of the board; to create
3 the Alabama Bail Bond Board Fund; to provide procedures for
4 licensure applications; to provide for qualifications for
5 licensure; to provide for criminal penalties for making false
6 statements to the board; to provide for the suspension and
7 revocation of licenses; to authorize civil penalties for
8 violations; to require the completion of continuing education;
9 and in connection therewith would have as its purpose or
10 effect the requirement of a new or increased expenditure of
11 local funds within the meaning of Amendment 621 of the
12 Constitution of Alabama of 1901, now appearing as Section
13 111.05 of the Official Recompilation of the Constitution of
14 Alabama of 1901, as amended.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. This act shall be known and may be cited
17 as the Alabama Bail Bond Regulatory Act.

18 Section 2. For the purposes of this act, the
19 following terms shall have the following meanings:

20 (1) BOARD. Alabama Professional Bail Bonding Board.

21 (2) PROFESSIONAL BONDSMAN. Any individual person who
22 is employed by a professional bail company to solicit and
23 execute appearance bonds or actively seek bail bond business
24 for or on behalf of a professional bail company, including any
25 individual who has a direct or indirect ownership interest in
26 a professional bail company.

1 (3) PROFESSIONAL SURETY BONDSMAN. Any individual
2 person who is employed by a professional surety company to
3 solicit and execute appearance bonds or actively seek bail
4 bond business for or on behalf of a professional surety
5 company, including any individual who has a direct or indirect
6 ownership interest in a professional surety company.

7 (4) RECOVERY AGENT. Any individual, other than an
8 attorney or law enforcement officer, utilized by a
9 professional surety company, professional bail company, or
10 professional bondsman to apprehend a defendant who was
11 released on bail and who failed to appear in court when
12 required.

13 Section 3. A person may not hold himself or herself
14 out to the public as a professional bondsman, or operate as a
15 recovery agent, or use any term, title, or abbreviation that
16 expresses, infers, or implies that the person is licensed as a
17 professional bondsman unless the person at the time holds a
18 valid license as professional bondsman as provided in this
19 act. All applicants shall pass an examination, unless exempted
20 by this act, based on criteria established by the Alabama
21 Professional Bail Bonding Board and established under Section
22 4 and shall comply with the continuing education requirements
23 established by this act.

24 Section 4. (a) There is created the Alabama
25 Professional Bail Bonding Board. The membership of the board
26 shall reflect the diversity of the state.

1 (b) Members of the board shall have had five years
2 of experience working with the professional bail bonding
3 industry, including experience as a law enforcement officer,
4 judge, attorney-at-law, court clerk, professional bondsman,
5 magistrate, lawmaker, or otherwise, prior to his or her
6 appointment.

7 (c) The following members shall be appointed to the
8 board:

9 (1) One person appointed by the Governor. The
10 Governor shall appoint the member to an initial term of three
11 years. Thereafter, successor members shall be appointed for
12 terms of four years each.

13 (2) Two persons appointed by the Speaker of the
14 House of Representatives for initial terms of two years.
15 Thereafter, successor members shall be appointed for terms of
16 four years.

17 (3) Two persons appointed by the Senate Pro Tem for
18 initial terms of four years. Thereafter, successor members
19 shall be appointed for terms of four years.

20 (d) Following the initial appointments, all
21 successor members of the board shall be appointed for a term
22 of four years and shall serve until their successors are
23 appointed and qualified by subscribing to the constitutional
24 oath of office, which shall be filed with the Secretary of
25 State.

1 (e) Any vacancy occurring on the board shall be
2 filled by the appointing authority of the vacating member for
3 the unexpired term.

4 (f) A member may not be appointed to succeed himself
5 or herself for more than three full terms.

6 (g) The appointing authority may remove a member of
7 the board for misconduct, incompetency, or willful neglect of
8 duty. The board may recommend to the appointing authority
9 suggested administrative actions that may be taken against a
10 board member for missing an excessive amount of meetings.

11 (h) Each member of the board shall receive a
12 certificate of appointment from the appointing authority
13 before entering upon the discharge of the duties of office.

14 (i) Members of the board shall receive compensation
15 for his or her service as a board member in the amount of five
16 hundred dollars (\$500) per month and such other reasonable and
17 necessary expenses incurred in the discharge of his or her
18 duties.

19 Section 5. (a) The members and employees of the
20 board are granted immunity from civil liability and may not be
21 liable for damages when acting in the performance of their
22 duties under this act.

23 (b) Board members and employees shall be defended by
24 the Attorney General in regard to any criminal or civil
25 litigation filed against them based on the performance of
26 their official duties under this act.

1 Section 6. At the initial meeting of the board and
2 each time a new member is appointed to the board, the members
3 of the board shall select from among their members a president
4 to preside over meetings of the board and a vice president to
5 preside in the absence of the chair and a secretary.

6 Section 7. (a) There is hereby created in the State
7 Treasury for the use of the Alabama Professional Bail Bonding
8 Board a fund to be known as the Alabama Bail Bond Board Fund.

9 (b) All application and license fees, penalties,
10 fines, and any other fees or funds collected by the board
11 under this act are to be deposited in this fund and used only
12 to carry out the operations of the board, but funds in excess
13 of the amount needed to pay the reasonable and necessary
14 operating costs of the board shall be reported to the
15 Legislature on an annual basis and any excess funds may,
16 thereafter, be paid to the General Fund.

17 (c) For the purpose of carrying out the objectives
18 of this act and for the exercise of the powers granted in this
19 act, the Alabama Professional Bail Bonding Board may direct
20 the disbursement of the funds from the Alabama Bail Bond Board
21 Fund necessary to cover reasonable and necessary operating
22 costs and board member compensation and expenses as provided
23 by this act, which shall be paid on warrant of the Comptroller
24 upon certificate or voucher of the secretary of the board,
25 approved by the president or vice president of the board.
26 Funds may not be withdrawn or expended except as budgeted and

1 allotted according to the provisions of Article 4 of Chapter 4
2 of Title 41, Code of Alabama 1975.

3 Section 8. (a) The Alabama Professional Bail Bonding
4 Board may adopt rules necessary to implement this act and
5 accomplish its objectives subject to the Alabama
6 Administrative Procedure Act.

7 (b) The board may adopt and establish canons of
8 ethics and minimum acceptable professional standards of
9 practice for licensees within any rules that it adopts.

10 (c) The board may hire personnel necessary or as
11 advisable to carry out the purposes of this act. With the
12 exception of the Executive Director, all personnel shall be
13 subject to the provisions of the state Merit System Act.

14 (d) The Attorney General shall provide legal
15 services to the board and its employees in connection with
16 official duties and actions of the board.

17 Section 9. (a) The board shall establish regular and
18 special meetings for the purpose of transacting its business
19 as provided by rules adopted by the board. Notice of board
20 meetings shall comply with the Alabama Open Meetings Act.

21 (b) A majority of the board shall constitute a
22 quorum at any meeting of the board.

23 Section 10. (a) Except as otherwise provided in this
24 act, it shall be unlawful for any person to act as a
25 professional bondsman or recovery agent without first
26 obtaining a license from the board, but professional surety
27 bondsman shall obtain a license from the Department of

1 Insurance and shall comply with all licensing requirements
2 issued by the Department of Insurance.

3 (b) A violation of subsection (a) is a Class A
4 misdemeanor.

5 (c) Each person licensed in accordance with this act
6 shall designate to the board a physical address where his or
7 her records are to be kept.

8 Section 11. An application and all information on an
9 application for licensure as a professional bondsman shall be
10 treated as confidential and shall be filed with the board on
11 forms prescribed by the board. The application shall include
12 all of the following information of the applicant:

13 (1) His or her full name.

14 (2) His or her date of birth.

15 (3) All residences during the immediate past five
16 years.

17 (4) All employment or occupations engaged in during
18 the immediate past five years.

19 (5) A list of convictions and pending charges
20 involving a felony or misdemeanor in any jurisdiction.

21 Section 12. Each individual applicant shall meet all
22 of the following criteria, demonstrating that he or she:

23 (1) Is at least 21 years of age.

24 (2) Has not been declared by any court of competent
25 jurisdiction incompetent by reason of mental defect or disease
26 unless a court of competent jurisdiction has subsequently
27 declared the applicant competent.

1 (3) Has not been convicted of a crime of moral
2 turpitude, with the board having the final determination on
3 the interpretation of moral turpitude.

4 (4) Has not been convicted of a felony crime.

5 Section 13. (a) (1) If an application for a license
6 is denied, the board shall notify the applicant in writing and
7 specify the grounds for denial. If the grounds are subject to
8 correction by the applicant, the notice shall so state and
9 specify a reasonable period of time within which the applicant
10 shall make the required correction.

11 (2) The applicant may submit an application for
12 reconsideration to the board within 30 days from the date of
13 receipt of denial.

14 (b) The board shall issue a license to all licensees
15 that shall be at least 8" x 10" in size and shall be displayed
16 on a wall of the workplace of the licensee. This license shall
17 be deemed property of the state and subject to forfeiture to
18 the state upon revocation.

19 (c) All licenses issued or renewed under this act
20 shall be valid for a period from the date of issuance until
21 October 31.

22 Section 14. (a) The board shall issue to every
23 bondsman licensee an identification card, which shall be
24 issued in credit card size, be permanently laminated, and
25 contain the following information of the licensee:

26 (1) Name.

27 (2) Photograph.

1 (3) Bondsman's license number.

2 (4) Expiration date of license.

3 (b) The identification card shall be carried on the
4 person of the licensee when engaged in the activities of the
5 licensee.

6 Section 15. Making a false statement to the board
7 shall be punishable by a civil penalty not to exceed one
8 thousand dollars (\$1,000) and assessment of the maximum
9 application fee.

10 Section 16. (a) The board may suspend, revoke, or
11 refuse to issue or renew any license issued by it upon finding
12 that the holder or applicant has committed any of the
13 following acts:

14 (1) A violation of this act or any rule promulgated
15 pursuant to this act.

16 (2) Fraud, deceit, or misrepresentation regarding an
17 application or license.

18 (3) Knowingly and willfully making a material
19 misstatement in connection with an application for a license
20 or renewal.

21 (4) A conviction by a court of competent
22 jurisdiction of a felony.

23 (5) A conviction by a court of competent
24 jurisdiction of a Class A misdemeanor, if the board finds that
25 the conviction reflects unfavorably on the fitness of the
26 person for the license.

1 (6) The commission of any act which would have been
2 cause for refusal to issue the license or identification card
3 had it existed and been known to the board at the time of
4 issuance.

5 (b) A license may be suspended for the remaining
6 license period and renewed during any period in which the
7 license was suspended.

8 Section 17. A licensee may not be required to obtain
9 any authorization of license, or pay any other license fee or
10 tax, in any municipality, county, or other political
11 subdivision of this state to engage in any activity regulated
12 under this act.

13 Section 18. The Administrative Procedure Act shall
14 govern all matters and procedures respecting the hearing and
15 judicial overview of any contested case.

16 Section 19. (a) A professional bondsman or recovery
17 agent commencing business in any judicial circuit in this
18 state on and after January 1, 2016, shall attend a 12-hour
19 instructional course conducted by an educational provider
20 approved by the board and pass an examination approved by the
21 board and administered by an educational provider approved by
22 the board. Upon completion of the course and passage of the
23 examination, the person shall be awarded an initial
24 examination certificate by the board, copies of which may be
25 submitted to the presiding circuit judge, or other judicial
26 authority, along with the other requirements set forth in
27 Section 15-13-159 or 15-13-160, Code of Alabama 1975. Those

1 professional bondsmen and recovery agents doing business
2 immediately prior to January 1, 2016, are exempt from the
3 initial 12-hour course and examination.

4 (b) A professional bondsman or recovery agent making
5 an annual filing in any circuit in this state pursuant to
6 Section 15-13-159 or 15-13-160, Code of Alabama 1975, on and
7 after six months of the effective date of this act shall first
8 complete eight hours of continuing education conducted by an
9 educational provider approved by the board. The educational
10 provider approved by the board shall provide the board with
11 the name of all professional bondsmen or recovery agents
12 completing eight hours of continuing education. Upon
13 completion of the eight hours of continuing education, the
14 person shall request issuance of an annual continuing
15 education certificate from the board, copies of which may be
16 submitted to the presiding circuit judge along with the other
17 requirements set forth in Section 15-13-159 or 15-13-160, Code
18 of Alabama 1975.

19 (c) The 12-hour instructional course, examination,
20 or continuing education courses shall be taught or sponsored
21 by an educational provider approved by the board, which must
22 apply annually for authority to offer such examination or
23 courses.

24 (d) A list of approved course providers will be
25 published on the board website.

26 (e) The cost of the 12-hour course shall be set by
27 the approved course provider but shall not exceed five hundred

1 dollars (\$500) per course. Upon completion of the 12-hour
2 course, the approved course provider shall issue a 12-hour
3 course completion certificate in a form approved by the board.
4 This completion certificate must be presented to the board in
5 order to take the introductory examination. A 12-hour course
6 completion certificate shall be valid for a period of 12
7 months.

8 (f) The cost of continuing education courses shall
9 be set by the approved course provider but shall not exceed
10 seventy-five dollars (\$75) per hour. Any fee required to be
11 paid by a course provider for reporting continuing education
12 course completion to the board may be added to the maximum
13 charges provided in this subsection.

14 (g) Each professional bondsman and recovery agent
15 must renew his or her certification with the board by
16 completing the eight hours of approved continuing education
17 prior to November 1 each year. Late renewal within the next 12
18 months may be had by completing the eight hours of continuing
19 education and paying a renewal license fee of twice the amount
20 otherwise required. If a professional bondsman or recovery
21 agent fails to renew a certification for a 12-month period,
22 the professional bondsman or recovery agent will be required
23 to take the initial 12-hour course and examination to again
24 become certified.

25 (h) The board shall set the fees to be paid to the
26 board in the administration of this section, not to exceed the
27 amounts set forth below:

1 (1) Examination fee, a nonrefundable fee to be paid
2 to take the examination and for the issuance of the initial
3 examination certificate, per examination attempt: \$125.

4 (2) Annual continuing education renewal certificate
5 fee, to be paid to receive the annual continuing education
6 certificate: \$50.

7 (i) The board shall adopt rules necessary to carry
8 out this section.

9 Section 20. No criminal or civil action taken under
10 this act precludes a prosecution or action under any other law
11 of this state.

12 Section 21. Although this bill would have as its
13 purpose or effect the requirement of a new or increased
14 expenditure of local funds, the bill is excluded from further
15 requirements and application under Amendment 621, now
16 appearing as Section 111.05 of the Official Recompilation of
17 the Constitution of Alabama of 1901, as amended, because the
18 bill defines a new crime or amends the definition of an
19 existing crime.

20 Section 22. This act shall become effective on the
21 first day of the third month following its passage and
22 approval by the Governor, or its otherwise becoming law.