

1 SB204
2 209796-2
3 By Senators Williams and Sessions
4 RFD: Banking and Insurance
5 First Read: 09-FEB-21

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4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to the Alabama Bail Bond Regulatory Act; to
12 amend Sections 15-13-201, 15-13-202, 15-13-203, 15-13-206,
13 15-13-207, 15-13-209, 15-13-210, 15-13-211, 15-13-214, and
14 15-13-217, as added to the Code of Alabama 1975 by Act
15 2019-409, 2019 Regular Session, to provide further for
16 definitions; to provide further for the qualifications of
17 members appointed to the board; to authorize the board to
18 issue apprentice licenses to certain qualified applicants; to
19 authorize the board to employ legal counsel; to further
20 prohibit unlicensed practice and provide criminal penalties
21 for violations; to require an applicant to successfully
22 complete certain education before licensure; to limit the
23 maximum amount of fees the board, by rule, may establish and
24 charge; and to clarify that application and renewal fees apply
25 to professional bail bondsmen, professional bail companies,
26 professional surety bondsmen, professional surety companies,
27 and recovery agents; to provide further for qualifications of

1 a professional bail company owner; and in connection therewith
2 would have as its purpose or effect the requirement of a new
3 or increased expenditure of local funds within the meaning of
4 Amendment 621, of the Constitution of Alabama of 1901, as
5 amended by Amendment 890, now appearing as Section 111.05 of
6 the Official ReCompilation of the Constitution of Alabama of
7 1901, as amended.

8 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

9 Section 1. Sections 15-13-201, 15-13-202, 15-13-203,
10 15-13-206, 15-13-207, 15-13-209, 15-13-210, 15-13-211,
11 15-13-214, and 15-13-217, as added to the Code of Alabama 1975
12 by Act 2019-409, 2019 Regular Session, are amended to read as
13 follows:

14 "§15-13-201.

15 "For the purposes of this article, the following
16 terms shall have the following meanings:

17 "(1) BOARD. Alabama Professional Bail Bonding Board.

18 "(2) PROFESSIONAL BAIL COMPANY. A person, individual
19 proprietor, partnership corporation, or other entity, other
20 than a professional surety company, that furnishes bail or
21 becomes surety for a person on an appearance bond and does so
22 for a valuable consideration.

23 "~~(2)~~ (3) PROFESSIONAL BONDSMAN. Any individual, or
24 agent, who is employed by a professional bail company or
25 professional surety company to solicit and execute appearance
26 bonds or actively seek bail bond business for or on behalf of
27 a professional bail company, including any individual who has

1 a direct or indirect ownership interest in a professional bail
2 company.

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

9 "(5) PROFESSIONAL SURETY COMPANY. An insurance
10 company, domestic or foreign corporation, or association
11 engaged in the business of insurance, or a surety with a bail
12 line of insurance to which has been issued a certificate of
13 authority or certificate of compliance by the state Department
14 of Insurance to execute appearance bonds or bail bonds in
15 criminal cases in the state.

16 "~~(4)~~(6) RECOVERY AGENT. Any individual, other than
17 an attorney or law enforcement officer, utilized by a
18 professional surety company, professional bail company, or
19 professional bondsman to apprehend a defendant who was
20 released on bail and who ~~failed to appear in court when~~
21 ~~required~~ violated the terms of his or her bail.

22 "§15-13-202.

23 "An individual may not hold himself or herself out
24 to the public as a professional bondsman or a professional
25 surety bondsman, operate as a recovery agent, or use any term,
26 title, or abbreviation that expresses, infers, or implies that
27 the individual is licensed as a professional bondsman unless

1 the individual at the time holds a valid license as a
2 professional bondsman as provided in this article. All
3 applicants shall pass an examination, unless exempted by this
4 article, based on criteria established by the Alabama
5 Professional Bail Bonding Board and established under Section
6 15-13-203 and shall comply with the continuing education
7 requirements established by this article. The board may issue
8 an apprentice license, which expires 120 days after issuance,
9 to any applicant who satisfies all criteria for licensure
10 except passing the examination. The board may require an
11 applicant for licensure as an apprentice to sign an affidavit,
12 on a form provided by the board, attesting that the applicant
13 has no felony convictions. The board, by rule, may also
14 provide an age exception to allow any applicant who is 19 or
15 20 years of age to work as an apprentice until his or her 21st
16 birthday. The board may charge a fee, not exceeding fifty
17 dollars (\$50), for an apprentice license.

18 "§15-13-203.

19 "(a) The Alabama Professional Bail Bonding Board is
20 created to administer and enforce this article. The board
21 shall consist of all of the following members:

22 "(1) Seven professional bondsmen, one from each of
23 the seven congressional districts of the state, nominated by
24 the Alabama Bail Bond Association and appointed by the
25 Governor from a list of not more than four nominees for each
26 position on the board. For the initial terms of office, the
27 President of the Alabama Bail Bond Association shall be the

1 professional bondsman member of the board who represents the
2 congressional district in which he or she resides. ~~The~~
3 ~~nominating and appointing authorities shall coordinate their~~
4 ~~nominations and appointments to ensure that one of the~~ Each
5 professional bondsman ~~members is~~ member appointed to the board
6 shall be the owner of a professional bail bond company with at
7 least ~~10~~ five years of experience. Except as otherwise
8 provided, no two professional bondsman members shall reside in
9 the same congressional district. If no professional bondsman
10 is available for nomination by the Alabama Bail Bond
11 Association for a congressional district, the Alabama Bail
12 Bond Association shall provide a list of four professional
13 bondsman nominees from the state at large to the Governor for
14 that congressional district, and the Governor shall appoint
15 one of those nominees to fill that position on the board.

16 "(2) One serving circuit, district, or municipal
17 court judge, nominated by the Alabama Bail Bond Association
18 and appointed by the Governor from a list of four nominees.

19 "(3) One serving circuit or municipal court clerk,
20 nominated by the Alabama Bail Bond Association and appointed
21 by the Governor from a list of four nominees.

22 "(b) The appointments to the board shall be for
23 terms of four years. The nominating and appointing authorities
24 shall coordinate their nominations and appointments so that
25 diversity of gender, race, and geographical areas is
26 reflective of the makeup of this state. Vacancies shall be

1 filled by appointment of the Governor for the unexpired
2 portion of the term.

3 "(c) The board, pursuant to the Alabama
4 Administrative Procedure Act, Chapter 22 of Title 41, shall
5 adopt and enforce reasonable rules as the board determines
6 necessary to effectively and efficiently carry out its
7 official duty of licensing and regulating professional bail
8 bond companies and professional bondsmen.

9 "(d) Each member of the board shall receive travel
10 and per diem compensation for expenses incurred in the conduct
11 of official duties while attending meetings and transacting
12 the business of the board, in accordance with applicable state
13 travel and per diem paid to state employees. The compensation
14 of members shall be paid from funds available to the board in
15 the same manner as other expenses are paid.

16 "§15-13-206.

17 "(a) There is created in the State Treasury for the
18 use of the Alabama Professional Bail Bonding Board a fund to
19 be known as the Alabama Bail Bond Board Fund.

20 "(b) All application, apprentice, and license fees,
21 penalties, fines, late fees, and any other fees or funds
22 collected by the board under this article are to be deposited
23 in this fund and used only to carry out the operations of the
24 board.

25 "(c) For the purpose of carrying out the objectives
26 of this article and for the exercise of the powers granted in
27 this article, the Alabama Professional Bail Bonding Board may

1 direct the disbursement of the funds from the Alabama Bail
2 Bond Board Fund necessary to cover reasonable and necessary
3 operating costs and board member compensation and expenses as
4 provided by this article, which shall be paid on warrant of
5 the Comptroller upon certificate or voucher of the secretary
6 of the board, approved by the president or vice president of
7 the board. Funds may not be withdrawn or expended except as
8 budgeted and allotted according to the provisions of Article 4
9 of Chapter 4 of Title 41.

10 "§15-13-207.

11 "(a) The Alabama Professional Bail Bonding Board may
12 adopt rules necessary to implement this article and accomplish
13 its objectives subject to the Alabama Administrative Procedure
14 Act.

15 "(b) The board may adopt and establish canons of
16 ethics and minimum acceptable professional standards of
17 practice for licensees within any rules that it adopts.

18 "(c) The board may hire personnel necessary or as
19 advisable to carry out the purposes of this article.

20 "(d) The Attorney General shall provide legal
21 services to the board and its employees in connection with
22 official duties and actions of the board or the board may
23 employ legal counsel, when deemed necessary by the board,
24 whose compensation shall be fixed by the board and paid in the
25 same manner as the per diem and expenses of the board members
26 are paid.

27 "§15-13-209.

1 "(a) Except as otherwise provided in this article,
2 it shall be unlawful for any individual to act as a
3 professional bondsman or recovery agent, or transact business
4 as either, without first obtaining a license from the board,
5 but a professional surety bondsman shall obtain a license from
6 the Department of Insurance and shall comply with all
7 licensing requirements issued by the Department of Insurance.

8 "~~(b) A violation of subsection (a) is a Class A~~
9 ~~misdemeanor~~ Any individual who willfully violates subsection
10 (a) or any other provision of this article, or a rule adopted
11 or order issued by the board pursuant to this article, upon
12 conviction, shall be guilty of a Class C felony.

13 "(c) Each individual licensed in accordance with
14 this article shall designate to the board a physical address
15 where his or her records are to be kept.

16 "§15-13-210.

17 "(a) An application and all information on an
18 application for licensure ~~as a professional bondsman~~ pursuant
19 to this article shall be treated as confidential and shall be
20 filed with the board on forms prescribed by the board. The
21 application shall include all of the following information of
22 the applicant:

23 "(1) His or her full name.

24 "(2) His or her date of birth.

25 "(3) All residences during the immediate past five
26 years.

1 "(4) All employment or occupations engaged in during
2 the immediate past five years.

3 "(5) A list of convictions and pending charges
4 involving a felony or misdemeanor in any jurisdiction.

5 "(b) On or before September 1 each year, the board
6 shall send an email reminder to each licensee stating that the
7 last day for submitting an application for a license renewal
8 is September 30 of that year.

9 "§15-13-211.

10 "Each individual applicant shall meet all of the
11 following criteria, demonstrating that he or she:

12 "(1) Is at least 21 years of age.

13 "(2) Has not been declared by any court of competent
14 jurisdiction incompetent by reason of mental defect or disease
15 unless a court of competent jurisdiction has subsequently
16 declared the applicant competent.

17 "(3) Has not been convicted of a crime of moral
18 turpitude, with the board having the final determination on
19 the interpretation of moral turpitude.

20 "(4) Has not been convicted of a felony.

21 "(5) Has successfully completed pre-licensure
22 education administered by an educational provider approved by
23 the board.

24 "§15-13-214.

25 "Making a false statement to the board shall be
26 punishable by a civil penalty not to exceed one thousand

1 dollars (\$1,000) and assessment of the maximum application fee
2 as provided in Section 15-13-217.

3 "§15-13-217.

4 "(a) A professional bondsman, professional surety
5 bondsman, or recovery agent commencing business in any
6 judicial circuit in this state on and after June 1, 2020,
7 shall attend a ~~12-hour~~ 16-hour instructional course conducted
8 by an educational provider approved by the board and pass an
9 examination approved by the board and administered by an
10 educational provider approved by the board. Upon completion of
11 the course and passage of the examination, the individual
12 shall be awarded an ~~initial~~ pre-licensure examination
13 certificate by the board, copies of which may be submitted to
14 the presiding circuit judge, or other judicial authority,
15 along with the other requirements set forth in Section
16 15-13-159 or Section 15-13-160. Those professional bondsmen,
17 professional surety bondsmen, and recovery agents doing
18 business immediately prior to June 1, 2020, are exempt from
19 the initial ~~12-hour~~ instructional course and examination.

20 "(b) Unless exempted pursuant to subsection (i), a
21 professional bondsman, professional surety bondsman, or
22 recovery agent making an annual filing in any circuit in this
23 state pursuant to Section 15-13-159 or Section 15-13-160 on
24 and after March 1, 2020, shall first complete eight hours of
25 continuing education conducted by an educational provider
26 approved by the board. A professional bail company owner, who
27 is 55 years of age and has ~~10~~ five years of experience in the

1 profession, shall only be required to complete four hours of
2 continuing education. The educational provider approved by the
3 board shall provide the board with the name of all
4 professional bondsmen, professional surety bondsmen, or
5 recovery agents completing eight hours of continuing
6 education. Upon completion of the eight hours of continuing
7 education, the individual shall request issuance of an annual
8 continuing education certificate from the board, copies of
9 which may be submitted to the presiding circuit judge along
10 with the other requirements set forth in Section 15-13-159 or
11 Section 15-13-160.

12 "(c) The ~~12-hour~~ instructional course, examination,
13 or continuing education courses shall be taught or sponsored
14 by an educational provider approved by the board, which must
15 apply annually for authority to offer such examination or
16 courses.

17 "(d) A list of approved course providers shall be
18 published on the website of the board.

19 "(e) The cost of the ~~12-hour~~ instructional course
20 shall be set by the approved course provider but shall not
21 exceed five hundred dollars (\$500) per course. Upon completion
22 of the ~~12-hour~~ instructional course, the approved course
23 provider shall issue ~~a 12-hour~~ an instructional course
24 completion certificate in a form approved by the board. This
25 completion certificate, along with the application fee, must
26 be presented to the board in order to take the ~~introductory~~
27 pre-licensure examination. ~~A 12-hour~~ An instructional course

1 completion certificate shall be valid for a period of 12
2 months.

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

9 "(g) Each professional bondsman, professional surety
10 bondsman, and recovery agent must renew his or her
11 certification with the board by completing ~~the~~ eight hours of
12 approved continuing education prior to ~~November 1~~ September 30
13 each year. Late renewal within the next 12 months may be had
14 by completing the eight hours of continuing education and
15 paying a renewal license fee of twice the amount otherwise
16 required. If a professional bondsman, professional surety
17 bondsman, or recovery agent fails to renew a certification for
18 a 12-month period, the professional bondsman, professional
19 surety bondsman, or recovery agent will be required to take
20 the ~~initial 12-hour~~ instructional course and examination to
21 again become certified.

22 "(h) The board, by rule, shall set the fees to be
23 paid to the board in the administration of this section, not
24 to exceed the maximum amounts set forth below:

25 "(1) ~~Examination~~ a. Application fee for a
26 professional bondsman, professional surety bondsman, or a
27 recovery agent, a nonrefundable fee to be paid to take the

1 examination and for the issuance of the ~~initial~~ pre-licensure
2 examination certificate, per examination attempt: ~~One hundred~~
3 ~~twenty-five dollars (\$125)~~ Up to five hundred dollars (\$500).

4 "b. Application fee for a professional bail company
5 or a professional surety company, a nonrefundable fee to be
6 paid for the issuance of an initial license: Up to five
7 hundred dollars (\$500). Payment of this fee does not alleviate
8 the requirement that each individual professional bondsman,
9 professional surety bondsman, and recovery agent be licensed
10 under this chapter.

11 "(2) a. Annual ~~continuing education renewal~~
12 certificate license renewal fee for a professional bondsman,
13 professional surety bondsman, or recovery agent, to be paid to
14 receive the annual continuing education certificate: ~~Fifty~~
15 From fifty dollars (\$50) up to five hundred dollars (\$500).

16 "b. Annual license renewal fee for a professional
17 bail company or a professional surety company, to be paid to
18 receive the renewal license: Up to one hundred dollars (\$100).

19 "(i) Any professional bondsman or professional bail
20 company owner who, on ~~September 1, 2019~~ the effective date of
21 the act amending this subsection, is ~~60~~ 65 years of age and
22 has ~~10~~ 15 years of experience in the profession, shall be
23 exempt from the continuing education requirements of this
24 article.

25 "(j) The board shall adopt rules necessary to carry
26 out this section."

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, as amended
5 by Amendment 890, now appearing as Section 111.05 of the
6 Official Recompilation of the Constitution of Alabama of 1901,
7 as amended, because the bill defines a new crime or amends the
8 definition of an 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.

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Senate

Read for the first time and referred to the Senate
committee on Banking and Insurance..... 09-FEB-21

Read for the second time and placed on the calen-
dar 1 amendment..... 03-MAR-21

Read for the third time and passed as amended 16-MAR-21

Yeas 30
Nays 0

Patrick Harris,
Secretary.