

1 SB73
2 216065-1
3 By Senator Williams
4 RFD: Banking and Insurance
5 First Read: 13-JAN-22

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8 SYNOPSIS: Under existing law, the Bail Bond Reform Act
9 of 1993, defines and provides for the use of bail
10 bonds and the duties and responsibilities of
11 professional bail and professional surety
12 companies.

13 This bill would remove the requirement of
14 cash bail only for an initial custody arrest under
15 certain circumstances, would provide for the
16 acceptance of certain filing fees by the sheriff or
17 jailer, and would provide further for the
18 definitions of cash bail and property bail.

19 This bill would provide further for the
20 arrest and delivery of a defendant to jail by a
21 surety with no court costs to be entered on the
22 surety, would provide that a surety not be charged
23 for a bondsman's process or for a certified copy of
24 a bond, and would require the license number of the
25 bondsman or recovery to be listed on a bondsman's
26 process form.

1 This bill would increase the time frames for
2 notice and conducting hearings in conditional
3 forfeiture proceedings.

4 This bill would remove the requirement that
5 a conditional judgment to set aside shall be made
6 absolute for the entire sum and would provide
7 further for instances when a court may set aside
8 forfeiture, may not release a defendant on judicial
9 public bail, and eligibility for judicial public
10 bail.

11 This bill would provide further for the
12 amount of new corporate surety bonds and escrow
13 agreements required in counties with a populations
14 of 200,000 or more.

15 This bill would provide further for criminal
16 penalties for certain unlawful behavior.

17 This bill would also make nonsubstantive,
18 technical revisions to update the existing code
19 language to current style.

20 Amendment 621 of the Constitution of Alabama
21 of 1901, as amended by Amendment 890, now appearing
22 as Section 111.05 of the Official Recompilation of
23 the Constitution of Alabama of 1901, prohibits a
24 general law whose purpose or effect would be to
25 require a new or increased expenditure of local
26 funds from becoming effective with regard to a
27 local governmental entity without enactment by a

1 2/3 vote unless: it comes within one of a number of
2 specified exceptions; it is approved by the
3 affected entity; or the Legislature appropriates
4 funds, or provides a local source of revenue, to
5 the entity for the purpose.

6 The purpose or effect of this bill would be
7 to require a new or increased expenditure of local
8 funds within the meaning of the amendment. However,
9 the bill does not require approval of a local
10 governmental entity or enactment by a 2/3 vote to
11 become effective because it comes within one of the
12 specified exceptions contained in the amendment.

13
14 A BILL
15 TO BE ENTITLED
16 AN ACT

17
18 Relating to the Bail Bond Reform Act of 1993; to
19 amend Sections 15-13-103, 15-13-107, 15-13-111, 15-13-114,
20 15-13-118, 15-13-125, 15-13-128, 15-13-131, 15-13-132,
21 15-13-136, 15-13-137, 15-13-138, 15-13-141, 15-13-145,
22 15-13-159, 15-13-160, and 15-13-164, Code of Alabama 1975, to
23 remove the requirement of cash bail only for certain initial
24 custody arrests; to provide for the acceptance of certain
25 filing fees by the sheriff or jailer; to further define cash
26 bail and property bail; to provide further for the arrest and
27 delivery of a defendant to jail by a surety with no court

1 costs to be entered on the surety; to provide that a surety
2 not be charged for a bondsman's process or for a certified
3 copy of a bond; to require the license number of the bondsman
4 or recovery on a bondsman's process form; to increase the time
5 frames for providing notice and conducting hearings in
6 conditional forfeiture proceedings; to remove the requirement
7 that a conditional judgment to set aside be made absolute for
8 the entire sum; to provide further for instances when a court
9 may set aside forfeiture and may not release a defendant on
10 judicial public bail; to provide further for eligibility for
11 judicial public bail; to provide further for the amount of new
12 corporate surety bonds and escrow agreements required in
13 counties with populations of 200,000 or more; to provide
14 further for criminal penalties for certain unlawful behavior;
15 to make nonsubstantive, technical revisions to update the
16 existing code language to current stye; and in connection
17 therewith would have as its purpose or effect the requirement
18 of a new or increased expenditure of local funds within the
19 meaning of Amendment 621 of the Constitution of Alabama of
20 1901, as amended by Amendment 890, now appearing as Section
21 111.05 of the Official Recompilation of the Constitution of
22 Alabama of 1901.

23 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

24 Section 1. Sections 15-13-103, 15-13-107, 15-13-111,
25 15-13-114, 15-13-118, 15-13-125, 15-13-128, 15-13-131,
26 15-13-132, 15-13-136, 15-13-137, 15-13-138, 15-13-141,

1 15-13-145, 15-13-159, 15-13-160, and 15-13-164 of the Code of
2 Alabama 1975, are amended to read as follows:

3 "§15-13-103.

4 "Admission to bail is the order of a judicial
5 officer of any court of the State of Alabama, or one of its
6 subdivisions, that the defendant be discharged from actual
7 custody on bail. Judicial officers of all courts in the ~~State~~
8 ~~of Alabama~~ state shall see that every defendant arrested and
9 in custody has an opportunity to give bail, in cases in which
10 the defendant is entitled to bail and in cases pending before
11 the court, and shall see that the amount of bail is
12 established. The amount of bail shall be set in the amount
13 that the judicial officer ~~feels~~, in his or her discretion,
14 feels is sufficient to guarantee the appearance of the
15 defendant. Bail amounts shall not exceed the statutory limits
16 otherwise set out in the laws of this state. The amounts of
17 bail may be set by a judicial officer in a standard bail
18 schedule as prescribed by the judge or pursuant to the bail
19 schedule ~~promulgated~~ adopted by Supreme Court rule. Bail for
20 an initial custody arrest of a defendant in misdemeanor cases,
21 municipal ordinance violations, violations, or traffic
22 offenses may not be set as cash bail only. Cash bail may be
23 ordered on failure to appear.

24 "§15-13-107.

25 "(a) Judges of any court within the ~~State of Alabama~~
26 state may accept, take, and approve bail within the
27 jurisdiction of their respective courts.

1 "(b) Circuit, district, and municipal court clerks,
2 including magistrates, may accept, take, and approve bail
3 within the jurisdiction of their respective courts.

4 "(c) Only judicial officers and circuit, district,
5 and municipal court clerks or a designee of the court may
6 accept and approve appeal bonds and cash bonds. Provided,
7 however, that any person designated by the court to receive
8 cash bonds, shall be bonded to receive court ~~moneys~~ monies and
9 have the written approval of their chief administrative
10 officer. Clerks of the courts of Alabama may delegate to their
11 employees the right to accept and approve appeal bonds and
12 cash bonds.

13 "(d) Sheriffs of the state and chiefs of police
14 having custody of a defendant may accept, take, and approve
15 property or professional surety bail. The authority may be
16 delegated to their deputies and officers.

17 "(e) The judicial officers and persons in
18 subsections (a), (b), (c), and (d) shall accept and shall
19 release the defendant when bail meets the requirements as set
20 out in Division 10, applying to professional surety. The
21 judicial officers and persons in subsection (c) shall accept,
22 approve, and release the defendant when the bail meets the
23 requirements as set out in Division 9, applying to cash bail.
24 The judicial officers and persons in subsections (a), (b),
25 (c), and (d) may accept, approve, and release the defendant
26 when the officer or person, as designated, is of the opinion

1 the bail meets the requirements as set out in Division 8 of
2 this chapter, applying to property bail.

3 "(f) A sheriff or jailer shall accept the filing fee
4 assessed under subsection (a) of Section 12-19-311, if payment
5 has been physically attached to the bail bond form at the time
6 of posting of the bail bond for the release of the defendant.
7 The clerks may accept business checks, cashiers checks,
8 certified checks, money orders, or cash. Any check or money
9 order shall be cashed within 90 days of receipt.

10 "§15-13-111.

11 "For persons arrested and taken into custody, there
12 shall be four kinds of bail used in this state. No other form
13 of bail may be approved and accepted by any judicial officer,
14 court clerk, magistrate, or any other person designated to
15 accept and approve bail as stipulated in Division 1, Sections
16 15-13-100 to 15-13-110, inclusive. The four kinds of bail
17 shall be judicial public bail, cash bail, property bail, and
18 professional surety bail. Their definitions are as follows:

19 "(1) CASH BAIL. Cash bail is when the defendant or
20 some person on behalf of the defendant deposits cash in an
21 amount equal to ~~a part~~ or the total sum of the bail as set by
22 the judicial officer to the clerk of the court having
23 jurisdiction over the case. Acceptance of cash bail shall
24 conform to Division 9.

25 "(2) JUDICIAL PUBLIC BAIL. Judicial public bail is
26 the release of any defendant without any condition of an
27 undertaking relating to, or a deposit of, security. ~~Such~~

1 Judicial public bail shall be granted to persons subjected to
2 custodial arrest only by a judicial officer having
3 jurisdiction over the defendant and in accordance with the
4 procedures established in Division 7 ~~of this article~~.

5 "(3) PROFESSIONAL SURETY BAIL. Professional surety
6 bail is when a defendant is released on bail by having a
7 professional surety or professional bail company execute a
8 bond on behalf of the defendant and becoming surety on the
9 bail. ~~Such~~ Professional surety or professional bail companies
10 shall meet the qualification requirements of Division 10.

11 "(4) PROPERTY BAIL. Property bail is when a
12 defendant is released on bail by having at least one or more
13 real property owners that own real property in the ~~State of~~
14 ~~Alabama~~ state, execute or become bail or surety for the
15 defendant. ~~Such property~~ Real property owners shall qualify
16 and meet requirements applying to property bail as set out in
17 Division 8.

18 "§15-13-114.

19 "The obligation of the sureties continues throughout
20 every stage of trial, from the time the defendant is entered
21 thereon until the rendition of the verdict by the jury or
22 judge. The finding of the defendant guilty by a jury or judge
23 discharges the sureties. The obligation of the sureties are
24 also discharged when the judge takes any of the following
25 actions:

26 "(1) Sentences the defendant.

1 "(2) Grants the prosecutor's motion to nol pros the
2 case.

3 "(3) Dismisses the case.

4 "(4) ~~Issuance of~~ Issues any order to the defendant
5 to attend driving-under-the-influence school, mental health
6 counseling, mental health court, pretrial diversion, drug
7 court, veterans court, or any similar order of which the court
8 would only have had the authority to do so, ~~if there had been~~
9 ~~an adjudication of guilt or in cases where there has been an~~
10 ~~adjudication of guilt.~~

11 "(5) ~~Issuance of~~ Issues any order of restitution or
12 payments received from the defendant to the court for fines,
13 court costs, or restitution.

14 "(6) ~~Announcement or order of~~ Announces or orders
15 asentence prior to any probation determination.

16 "§15-13-118.

17 "After the entry of a conditional forfeiture against
18 any surety on an undertaking of bail, the surety may arrest
19 the defendant as provided in Section 15-13-117, ~~but~~ and the
20 arrest and delivery of the defendant to the authorized jail as
21 stated in Section 15-13-117 shall ~~not~~ exonerate the surety
22 ~~unless, in the judgment of the court, a good and sufficient~~
23 ~~cause is given for the failure of the defendant to appear at~~
24 ~~the time the conditional judgement was entered.~~ No court costs
25 shall be entered on the surety. On a conditional forfeiture,
26 defendants who are their own sureties by posting their own

1 cash, real property, or personal recognizance bail shall be
2 assessed court costs upon a final forfeiture.

3 "§15-13-125.

4 "The clerk of the court having jurisdiction over the
5 defendant shall issue a bondsman's process to the sureties on
6 ~~such~~ the bail upon their request. The request may be made by
7 any one of the sureties. Before the issuance of the process,
8 the clerk shall determine if the case is still open and the
9 defendant and the sureties have not been discharged by law. A
10 surety shall not be charged for the bondsman's process or for
11 a certified copy of the bond.

12 "§15-13-128.

13 "The following shall be substantially the form to be
14 used for a bondsman's process.

15 "BONDSMAN'S PROCESS

16
17 "STATE OF ALABAMA

18 "COUNTY OF _____.

19 "(or)

20 "CITY OF _____.

21 "WHEREAS, the Sureties on the bail of the defendant
22 _____, in case number _____, have expressed their desire to
23 surrender the defendant to the custody of _____ of (City or
24 County), Alabama, and such desire has been expressed to the

1 clerk of the _____ Court of the City/County of _____, Alabama,
2 and,

3 "WHEREAS, the clerk has checked the records and case
4 number _____ is still pending and the defendant nor his or her
5 sureties have been discharged of their obligations, or the
6 records of case number _____ reflect that the defendant has
7 failed to appear on the obligation of bail as required and a
8 warrant has been issued for the arrest of the defendant.

9 "NOW, THEREFORE, this document is issued, as re-
10 quired by law, and the document gives the right to the Sure-
11 ties (bondsmen) to arrest the defendant, _____ at any place in
12 the State of Alabama, or the sureties may authorize another
13 person to arrest the defendant by an endorsement in writing on
14 this document or attached to this document and the surety or
15 bondsman shall forthwith, after the arrest, take the defendant
16 to the _____ jail of _____, custodian thereof.

17 "Executed this _____ day of
18 _____, 20__.

19 " _____

20 "CLERK OF COURT

21 "SEAL:

22 "Bondsman Return

1 "On this _____ day of _____, 20__, I
2 _____ agent for _____ surrender the above named
3 defendant to the _____ jail of _____.

4 "Time: _____

5 "Bondsman's or Recovery License Number:

6 _____.

7 "§15-13-131.

8 "(a) When a defendant fails to appear in court as
9 required by the undertaking of bail and no sufficient excuse
10 has been provided to the court prior to the hearing, the court
11 shall order a conditional forfeiture and show cause order
12 against the defendant and the sureties of the bail. The court
13 shall notify defendant and sureties of the order as set out in
14 this article. The defendant or sureties, or both, shall file a
15 written response with the clerk of the court within ~~28~~ 45 days
16 ~~of~~ after the date of service of the notice why the bond should
17 not be forfeited. If a written response is filed within the
18 time allowed and the court is of the opinion the written
19 response is sufficient, the court shall set aside the
20 conditional forfeiture. If the court is of the opinion the
21 written response is not sufficient, the court shall set a
22 hearing to determine whether the bond should be forfeited. The
23 hearing shall not be set less than ~~90~~ 120 days ~~of~~ after the
24 service of the conditional forfeiture order. If no written
25 response has been filed after ~~28~~ 45 days from the date of
26 service of the notice, the court may enter an appropriate
27 order or final judgment forfeiting all or part of the amount

1 of the bond which shall be enforceable as any civil judgment.
2 The court may take into consideration the circumstances
3 provided to the court and continue any final forfeiture
4 hearing to another day and time allowing the sureties more
5 time to apprehend the defendant.

6 "(b) When an undertaking of bail is forfeited by the
7 failure of the defendant to appear as required, except when
8 money is deposited as cash bail, a conditional judgment shall
9 be rendered by the court in favor of the state or its subdivi-
10 sions, for the use of the proper city, county, or state,
11 against the parties to the undertaking for the sum thereon
12 expressed, which judgment may be substantially as follows:

13 "(State of or City Charge: _____

14 of)

15 "vs Case No. _____

16 "A.B. _____

17 "C.D. _____

18 "E.F. (Sure-
19 ties) _____

20 "It being known to the court that A.B., together
21 with (Sureties) _____, agreed to pay the State of Alabama (or
22 City of _____,) _____ dollars (the sum specified in the
23 undertaking), unless A.B. appeared at the time and place

1 mentioned and fixed in the bond or undertaking to answer in
2 this case and A.B. having failed to appear at the time and
3 place mentioned in the bond or undertaking, it is therefore
4 ordered by the court that the State of Alabama (or City of
5 _____,) for the use of _____ State (or City), recover of the
6 defendant and sureties on the undertakings, the sum of _____
7 dollars (the sum specified in the undertaking), unless they
8 file a written response and show cause why this judgment
9 should not be made absolute within ~~20~~ 45 days of the date of
10 service of this conditional forfeiture order.

11 "(c) The state shall remit one-half of the funds it
12 receives under subsections (a) and (b) to the county in which
13 the defendant was charged. The funds shall be deposited into
14 the general fund of the county and used for the maintenance
15 and operation of the county jail.

16 "§15-13-132.

17 "A notice of the rendition of the judgment set forth
18 in Section 15-13-131 shall be issued by the clerk of the court
19 and served according to the terms as established in this arti-
20 cle within 90 days ~~of the court's conditional forfeiture order~~
21 ~~to the defendant and sureties. The notice may be in the fol-~~
22 ~~lowing form~~ of the defendant's failure to appear in court:

23 "STATE OF ALABAMA _____

24 "(or City of _____)

Defendant

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vs

" _____ County _____

"Surety

"Case No. _____

"Surety

"Charge: _____

"Conditional Forfeiture Notice

"To: _____ Court

"Defendant

" _____

"Surety

"You are hereby notified that your name appears as a surety on the bond in the above styled case. This case was called for trial on _____ (date) and the defendant was not present to answer. Therefore, a conditional forfeiture of _____ dollars was entered against you.

1 "You shall file a written response within ~~20~~ 45 days
2 after you receive this notice and show cause to the court why
3 this bond amount and the court cost incident to this
4 forfeiture should not be made final.

5 "If no action on your part is taken ~~20~~ 45 days after
6 the date you receive this notice, a final forfeiture may be
7 entered against you by the court. The sheriff shall collect
8 the amount of the bond and court cost from you or levy on your
9 property to satisfy the forfeiture case. If you file a written
10 response and the court is of the opinion your written response
11 is not sufficient to set aside the conditional forfeiture,
12 then the court shall set a final forfeiture hearing date and
13 you will be notified at the address provided on the response.

14 "This bond forfeiture is a court case against you
15 separate from the defendant's criminal case. The court has
16 also ordered that the defendant be re-arrested in the original
17 case.

18 "Date issued: _____ By _____

19 "Clerk

20 "§15-13-136.

21 "In forfeiture cases where the clerk of the court
22 has failed to issue the conditional forfeiture notice as
23 stipulated in Section 15-13-132 and where there has been no
24 service as set out in Section 15-13-134 made within 90 days of

1 after the order of the court defendant fails to appear as set
2 out in Section 15-13-131, and where the sureties have complied
3 with Section 15-13-133, then the sureties shall be discharged
4 from all liability of the bail and the conditional judgment
5 shall be set aside against ~~such~~ those sureties.

6 "§15-13-137.

7 "If the defendants appear and show sufficient cause
8 for the default to be determined by the court, the conditional
9 judgment shall be set aside. If the excuse is not sufficient,
10 or if the defendant or sureties fail to appear at the final
11 forfeiture hearing, the judgment ~~shall~~ may be made absolute
12 for the entire sum expressed in the undertaking, or any
13 portion thereof according to the circumstances.

14 "§15-13-138.

15 "(a) The court shall set aside the conditional
16 forfeiture in its entirety for the following reasons or under
17 the following circumstances:

18 "(1) If the sureties can show that the defendant was
19 hospitalized at the time he or she was to appear in court, or
20 if the sureties can produce sufficient evidence that the
21 defendant was not able to attend court for reason of illness,
22 by producing a doctor's certificate or letter to that effect.
23 The hospitalization may be in or out of ~~the State of Alabama~~
24 this state. For the sureties to take advantage of this
25 ~~provision~~ subdivision, they shall put the court on notice that
26 the situation exists either prior to the issuance of the
27 conditional forfeiture order or within ~~28~~ 45 days after legal

1 service of the conditional forfeiture on the sureties. After
2 receiving notice, the court may continue the case to a future
3 date it deems proper and just for the defendant to appear. If
4 at that time the defendant is still not able to attend court
5 for the same reason, then it shall be the burden of the
6 sureties to produce the evidence within the same prescribed
7 time. This section ~~shall~~ does not bar the court from the
8 issuance of a bench warrant for the defendant in cases where
9 the court feels that documents of proof do not reflect the
10 truth, or where the court has reason to believe the defendant
11 may appear and he or she is using ~~such~~ the documents of proof
12 as an excuse to avoid appearance.

13 "(2) If the sureties show that the defendant was
14 confined in jail or in the custody of another jurisdiction in
15 ~~the State of Alabama~~ this state or any other state, at the
16 time of his or her original appearance or on the date of the
17 issuance of the conditional forfeiture order, or if the surety
18 shows that the defendant is still confined in any jail in ~~the~~
19 ~~State of Alabama~~ this state or any other state, or in the
20 custody of another jurisdiction within ~~the State of Alabama~~
21 this state or any other state, or in the custody of another
22 jurisdiction within the continental United States, including
23 United States federal jurisdiction, the court shall set aside
24 the conditional forfeiture and continue the case until a time
25 after the end of that confinement. If the court later learns
26 that the defendant is free from confinement before the
27 confinement was supposed to end, then the court, with notice

1 to the sureties, may reset the case and the burden shall be on
2 the sureties to produce the defendant for the hearing or the
3 court may issue another conditional forfeiture.

4 "(3) If the sureties show the defendant is deceased.

5 "(4) If the sureties show the defendant was serving
6 on active duty in one of the military services of the United
7 States.

8 "(b) If the surety requests that a defendant who has
9 failed to appear be entered into NCIC, and the governing
10 authorities refuse to honor the request or the defendant is
11 arrested outside of the state and the governing authorities
12 decline to proceed with extradition, the surety shall be
13 discharged. A surety shall be notified by the district
14 attorney in writing of a defendant's arrest outside of the
15 state within seven days of the arrest. The defendant may be
16 charged the cost of extradition and those costs may be added
17 to court costs.

18 "§15-13-141.

19 "In all cases where a conditional forfeiture has
20 been made final by any court of the state or any of its
21 subdivisions and there has been no further action or request
22 filed with the court, appeal taken, ~~application to the State~~
23 ~~Pardons and Paroles Board,~~ or any other litigation of which
24 the court has knowledge has been filed by the surety with the
25 court within 30 days to the clerk of the court of the entry or
26 order of the final judgment and the same has not been paid
27 within 30 days to the clerk of the court, then the clerk shall

1 refuse to accept and approve any bonds from the surety as
2 being insufficient. The clerk shall notify all persons
3 authorized to accept and approve bonds returnable to the court
4 of the action and they shall no longer accept or approve
5 surety on bonds until notified otherwise by the clerk. The
6 clerk shall also notify the circuit clerk of the county who
7 shall notify all other clerks of any courts in the county in
8 writing and the clerks shall refuse to accept or approve any
9 other bonds of the surety and shall notify the other
10 authorized persons having the authority to approve and accept
11 bail returnable to their courts of the action and they shall
12 no longer accept or approve the surety on bail until otherwise
13 notified by the clerk. Refusal by the clerks shall be in
14 writing and shall be known as a "clerk's revocation of
15 surety."

16 "§15-13-145.

17 "Any person charged with a felony, misdemeanor, or
18 violation shall be eligible for a judicial public bail, if:

19 "(1) The person is not charged with robbery, capital
20 murder, forcible sex crimes, escape, trafficking in drugs, or
21 the sale of drugs.

22 "(2) The person has not been convicted of a previous
23 felony or committed a felony while being released on any form
24 of bail.

25 "(3) The person is not presently under a suspended
26 sentence or on probation or parole for a previous conviction
27 on a misdemeanor or a felony.

1 "(4) There is no evidence, satisfactory to the
2 judicial officer, that the person has violated a previous bail
3 release, whether it be judicial public bail, property, cash,
4 ~~or~~ professional surety bail, or failure to appear.

5 "§15-13-159.

6 "No professional surety company shall execute or
7 become surety on any appearance bond in this state, unless it
8 has an order granting authorization to become professional
9 surety on any bail. The order granting the authorization shall
10 be reissued annually, prior to January 1 of each year, by the
11 presiding circuit judge of the county in which the company
12 desires to execute bail or appearance bonds. Prior to the
13 judge's issuance of the original order and no later than
14 December 1 of each year, thereafter, professional surety
15 companies shall submit annually to the presiding circuit judge
16 the following:

17 "(1) An original or certified copy of a certificate
18 of authority or certificate of compliance from the Department
19 of Insurance reflecting that the company is qualified to write
20 a bail line of insurance and that the company is in good
21 standing with the department.

22 "(2) An original qualifying power of attorney issued
23 by the professional surety company, specifying any applicable
24 limitations and the names of the agents that may execute and
25 bind the company to a bail undertaking. The qualifying power
26 of attorney shall not name any company, corporation, or other
27 entity as an agent except a person as defined as a

1 professional bondsman in Division 1, Section 15-13-100 of this
2 chapter, and that person shall be an agent of the company
3 licensed with the Department of Insurance.

4 "(3) A copy of the license issued by the Department
5 of Insurance of each agent who is named in or appointed by the
6 qualifying power of attorney in subdivision (2) or a letter or
7 other documentation from the department indicating that the
8 appointed agents are temporarily licensed as agents of the
9 professional surety company for those lines of insurance.

10 "(4) An affidavit or certification in writing, under
11 oath, executed by a licensed agent of the professional surety
12 company who is the manager or an owner or president of a
13 corporation, company, partnership, or other entity that
14 represents the professional surety company, filed with the
15 clerk of the circuit court of each county in which the
16 professional surety company executes or becomes surety on
17 appearance bonds, stating the following:

18 "a. That all appearance bonds shall be executed in
19 the name of the professional surety company as surety by the
20 agents listed or appointed in the qualifying power of attorney
21 presented to the court or any other qualifying powers of
22 attorney filed with the circuit clerk of the county.

23 "b. That all agents listed or appointed in the
24 qualifying powers of attorney shall be licensed by the
25 Department of Insurance, prior to their appointments.

26 "c. That any agency, company, corporation, or other
27 entity that represents the professional surety company in the

1 county, has no owners or other persons having a direct or
2 indirect financial interest in such agency, company,
3 corporation, or other entity, that have been convicted of a
4 felony or a crime involving moral turpitude. If any person
5 having a direct or indirect financial interest in such agency,
6 company, corporation, or other entity has been convicted of a
7 felony or a crime involving moral turpitude, then the
8 affidavit or certification shall certify that there has been
9 such conviction, providing the name of the person convicted,
10 and certify that the person convicted has been pardoned or has
11 had a restoration of civil rights.

12 "d. That the professional surety company has no
13 knowledge of forfeitures that have been final for more than 30
14 days that have not been paid to the clerk of the court arising
15 out of surety undertaking, and that the professional surety
16 company has no petitions, motions, or other litigation matters
17 pending.

18 "e. That no agents of the professional surety
19 company who have the authority to execute appearance bonds in
20 its behalf or any person having a financial interest, direct
21 or indirect, in the ownership or management of any agency,
22 company, corporation, or other entity that represents the
23 professional surety company in the execution of appearance
24 bonds, is an attorney, a judicial official, a person
25 authorized to accept an appearance bond, or an agent of an
26 attorney, judicial official, or person authorized to accept an
27 appearance bond.

1 "f. The names and addresses of all persons,
2 officers, employees, and agents of the agency, company,
3 corporation, or other entity that represents the professional
4 surety company becoming surety on appearance bonds who have a
5 direct or indirect financial interest in the agency, company,
6 corporation, or other entity representing the professional
7 surety company and the nature and extent of each interest.

8 "g. That those persons stated in this section have
9 not, within a period of two years, violated any provisions of
10 this chapter or any rules adopted by the Supreme Court of
11 Alabama in accordance with this chapter.

12 "(5) A copy of the license issued by the Alabama
13 Professional Bail Bonding Board pursuant to the Alabama Bail
14 Bond Regulatory Act, Article 8, commencing with Section
15 15-13-200.

16 "§15-13-160.

17 "No professional bail company shall execute or
18 become surety on any appearance bond in this state, unless ~~it~~
19 the company has an order granting authorization to become
20 professional surety on any bail. The order granting
21 authorization shall be reissued annually prior to January 1 of
22 each year by the presiding circuit judge of the county in
23 which the company desires to execute bail or appearance bonds.
24 Prior to the judge's issuance of the original order and no
25 later than December 1 of each year, thereafter, professional
26 bail companies shall submit annually to the presiding circuit
27 judge the following:

1 "(1)a. An original corporate surety bond or escrow
2 agreement, filed and approved by the presiding circuit judge
3 of the county in which the professional bail company executes
4 or becomes surety on appearance bonds, in the amount of
5 ~~\$25,000~~ twenty-five thousand dollars (\$25,000), guaranteeing
6 the payment of all sums of money that may become due by virtue
7 of any judgment absolute that may be rendered against the
8 professional bail company on a forfeiture entered by any court
9 in the county. Corporate surety bonds shall be executed only
10 by a surety company authorized to do business in ~~the State of~~
11 ~~Alabama~~ this state and qualified to write bonds by the
12 Department of Insurance. The corporate surety bond shall
13 provide that it may be cancelled as to any future liability by
14 the corporate surety company or the professional bail company
15 giving 30 days prior written notice of the cancellation to the
16 clerk of the circuit court in which the bond or instrument was
17 filed. A bank in ~~the State of Alabama~~ this state shall be a
18 party to all escrow agreements, and those agreements shall
19 provide that the agreement may be cancelled as to any future
20 liability only by the professional bail company and bank
21 giving 30 days prior written notice of the cancellation to the
22 clerk of the circuit court in which the escrow agreement or
23 instrument is filed. Once a professional bail company has
24 filed an original continuous corporate surety bond or escrow
25 agreement with the circuit clerk and it has been approved by
26 the presiding circuit judge, then the professional bail
27 company does not have to file any other original continuous

1 corporate surety bond or escrow agreement upon annual
2 recertification. The professional bail company shall submit an
3 original certificate from the insurance company which executed
4 the corporate surety bond reflecting that it is still in force
5 or an original letter from the bank stating the escrow
6 agreement is still effective and the ~~moneys~~ monies are still
7 held in trust. When any professional bail company is annually
8 recertifying, the circuit clerk shall send the original
9 corporate surety bond or original escrow agreement with any
10 cancellations received by the circuit clerk to the presiding
11 circuit judge for review and approval.

12 "b. Any new original corporate surety bond or escrow
13 agreement made after the effective date of the act adding this
14 paragraph, in a county with a population of 200,000 or more,
15 shall require a surety bond or escrow agreement in the amount
16 of fifty thousand dollars (\$50,000). This paragraph does not
17 affect any corporate surety bond or escrow agreement made
18 before the effective date of the act adding this paragraph.
19 Current escrow agreements shall remain at twenty-five thousand
20 dollars (\$25,000) for any renewal thereafter.

21 "(2) An original qualifying power of attorney,
22 letter, or other document issued by the professional bail
23 company specifying any applicable limitations and specifying
24 the agents who are authorized to execute and bind the
25 professional bail company to a bail undertaking or to
26 appearance bonds. The qualifying power of attorney, letter, or
27 other document may only name persons as agents.

1 "(3) An original affidavit or certificate in
2 writing, under oath, executed by an owner or officer of a
3 professional bail company, to the clerk of the circuit court
4 of the county in which the professional bail company shall
5 execute or become surety on appearance bonds which contains
6 all of the following:

7 "a. That all appearance bonds shall be executed in
8 the name of the professional bail company as surety by the
9 agents listed or appointed in the qualifying power of
10 attorney, letter, or other document presented to the court or
11 any other person so named in any future qualifying powers of
12 attorney, letters, or documents filed with the circuit clerk
13 of the county.

14 "b. That the professional bail company is qualified
15 to do business in this state and its resident address.

16 "c. That the professional bail company has
17 sufficient financial net worth to satisfy its obligations as a
18 surety.

19 "d. That no person having a direct or indirect
20 financial interest in the professional bail company has been
21 convicted of a felony or a crime involving moral turpitude.
22 Notwithstanding the foregoing, if any person having a direct
23 or indirect financial interest in the bonding business has
24 been convicted of a felony or a crime involving moral
25 turpitude, then the person making the certification shall
26 certify that there has been a conviction, provide the name of

1 the person convicted, and certify that the person convicted
2 has been pardoned or has had a restoration of civil rights.

3 "e. That the professional bail company has no
4 knowledge of any forfeiture that has been made final for more
5 than 30 days that has not been paid arising out of surety
6 undertakings and as to which the professional bail company has
7 no petitions, motions, or other litigation matters pending.

8 "f. That there are no persons, including employees,
9 agents, or persons with a financial interest in the
10 professional bail company, who, within a period of two years,
11 violated this chapter, or any rules adopted by the Supreme
12 Court governing the qualifications of professional surety or
13 bail companies.

14 "g. That no employee, agent, or any other person
15 having a direct or indirect financial interest in the
16 professional bail company is an attorney, a judicial official,
17 a person authorized to accept an appearance bond, or an agent
18 of an attorney, judicial official, or person authorized to
19 accept an appearance bond.

20 "h. The names and addresses of all officers,
21 employees, and agents of the professional bail company who
22 have a direct or indirect financial interest in the
23 professional bail company and the nature and extent of each
24 interest.

25 "§15-13-164.

26 "(a) Any person who becomes surety on any bail for a
27 defendant in this state and receives something of value or

1 charges a fee therefor, and who is not authorized as a
2 professional surety or bail company under this chapter shall
3 be guilty of a Class A misdemeanor and, upon conviction, shall
4 be sentenced in accordance with the laws of this state for
5 such an offense.

6 "(b) Any defendant or other individual who contracts
7 with a surety or court, who provides false information to the
8 court or to the sureties on any bail bond forms or contracts,
9 shall be guilty of a Class A misdemeanor and, upon conviction,
10 shall be sentenced in accordance with the laws of this state
11 for the offense.

12 "(c) Any surety who exchanges sexual services in
13 exchange for bail bond services shall be guilty of a Class C
14 felony and, upon conviction, shall be sentenced in accordance
15 with the laws of this state for the offense."

16 Section 2. Although this bill would have as its
17 purpose or effect the requirement of a new or increased
18 expenditure of local funds, the bill is excluded from further
19 requirements and application under Amendment 621, as amended
20 by Amendment 890, now appearing as Section 111.05 of the
21 Official Recompilation of the Constitution of Alabama of 1901,
22 as amended, because the bill defines a new crime or amends the
23 definition of an existing crime.

24 Section 3. The provisions of this act are severable.
25 If any part of this act is declared invalid or
26 unconstitutional, such declaration shall not affect the part
27 which remains.

1 Section 4. This act shall become effective on the
2 first day of the third month following its passage and
3 approval by the Governor, or its otherwise becoming law.