

1 SB164
2 126750-1
3 By Senator Ward
4 RFD: Governmental Affairs
5 First Read: 08-MAR-11

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8 SYNOPSIS: Under existing law, a bondsman, except a
9 corporation qualified to do a bonding business in
10 this state, is required to furnish a bond with
11 corporate surety in the amount of \$25,000 (\$10,000
12 for Cullman County).

13 This bill would require a bondsman, except a
14 corporation qualified to do a bonding business in
15 this state, to furnish a bond with corporate surety
16 in the amount of \$50,000.

17 This bill would also require a bondsman,
18 except a corporation qualified to do a bonding
19 business in this state, and a professional surety
20 company to place in escrow, in a federally insured,
21 interest bearing account, five percent of the total
22 outstanding liability in excess of \$500,000, up to
23 a maximum escrowed amount of \$200,000, and file a
24 liability report with the circuit clerk of each
25 county in which the person does business setting
26 forth the amount of outstanding liability and a
27 statement setting forth the escrowed amount.

1
2 A BILL
3 TO BE ENTITLED
4 AN ACT
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6 To amend Sections 15-13-22 and 15-13-159 of the Code
7 of Alabama 1975, relating to surety requirements for bondsmen;
8 to require a bondsman, except a corporation qualified to do a
9 bonding business in this state, to furnish a bond with
10 corporate surety in the amount of \$50,000; and to require a
11 bondsman, except a corporation qualified to do a bonding
12 business in this state, and a professional surety company to
13 place in escrow, in a federally insured, interest bearing
14 account, five percent of the total outstanding liability in
15 excess of \$500,000, up to a maximum escrowed amount of
16 \$200,000, and file a liability report with the circuit clerk
17 of each county in which the person does business setting forth
18 the amount of outstanding liability and a statement setting
19 forth the escrowed amount.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. Sections 15-13-22 and 15-13-159, Code of
22 Alabama 1975, are amended to read as follows:

23 "§15-13-22.

24 "(a) Each person signing as surety an undertaking of
25 bail must be:

26 "(1) A resident of this state; and

1 "(2) Worth, exclusive of property exempt from
2 execution, the amount expressed in the undertaking;
3 but the court or magistrate, in taking bail, may allow more
4 than two persons to justify severally as bail in amounts less
5 than that expressed in the undertaking, provided the whole is
6 equivalent to two sufficient bails.

7 "(b) The court or magistrate in taking bail, in lieu
8 of the foregoing, may allow a corporation, foreign or
9 domestic, qualified to do a bonding business in this state and
10 authorized to execute the undertaking of bail, to execute such
11 bail.

12 "(c) Every person engaged in the business of making
13 bail bonds and charging therefor, except corporations
14 qualified to do a bonding business in this state, shall be
15 required, in addition to all other requirements of this
16 section,:

17 "(1) To to furnish a bond with corporate surety in
18 the amount of \$25,000.00 (~~\$10,000.00 in Cullman County~~) fifty
19 thousand dollars (\$50,000), to be approved by the probate
20 judge of each county in which such person engages in such
21 business, conditioned to guarantee the payment of all sums of
22 money that may become due the state or any political
23 subdivision thereof by virtue of any judgment absolute being
24 rendered against such person on a forfeiture of bail.

25 "(2) To place in escrow, in a federally insured,
26 interest bearing account, an amount equal to five percent of
27 the total outstanding liability in excess of five hundred

1 thousand dollars (\$500,000), up to a maximum escrowed amount
2 of two hundred thousand dollars (\$200,000).

3 "(3) To file a liability report each month with the
4 circuit clerk of each county in which the person does business
5 setting forth the amount of outstanding liability and a
6 statement setting forth the amount escrowed. If, upon review
7 of the liability report, the circuit clerk determines that the
8 amount in escrow does not comply with the requirements of this
9 section, the certification of the person to make bail bonds
10 and charge therefor shall be suspended in that county.

11 "(d) Only one such bond set forth in subsection (c)
12 of this section shall be required in each county where such
13 person does business, and the liability of the surety company
14 executing a bond under this section shall not exceed the face
15 amount of such surety bond; provided, however, that the bond
16 may be cancelled as to any future liability at any time by the
17 surety's giving 30 days' written notice of such cancellation
18 to the probate judge of the county in which the bond is filed.

19 "(e) When there is a reasonable doubt as to the
20 sufficiency of the bail, they may be required by the court or
21 magistrate to answer fully on oath as to their qualifications.

22 "§15-13-159.

23 "(a) No professional surety company shall execute or
24 become surety on any appearance bond in this state, unless it
25 has an order granting authorization to become professional
26 surety on any bail. The order granting the authorization shall
27 be reissued annually, prior to January 1 of each year, by the

1 presiding circuit judge of the county in which the company
2 desires to execute bail or appearance bonds. Prior to the
3 judge's issuance of the original order and no later than
4 December 1 of each year, thereafter, professional surety
5 companies shall submit annually to the presiding circuit judge
6 the following:

7 "(1) An original or certified copy of a certificate
8 of authority or certificate of compliance from the Department
9 of Insurance reflecting that the company is qualified to write
10 a bail line of insurance and that the company is in good
11 standing with the department.

12 "(2) An original qualifying power of attorney issued
13 by the professional surety company, specifying any applicable
14 limitations and the names of the agents that may execute and
15 bind the company to a bail undertaking. The qualifying power
16 of attorney shall not name any company, corporation, or other
17 entity as an agent except a person as defined as a
18 professional bondsman in Division 1, Section 15-13-100 of this
19 chapter, and that person shall be an agent of the company
20 licensed with the Department of Insurance.

21 "(3) A copy of the license issued by the Department
22 of Insurance of each agent who is named in or appointed by the
23 qualifying power of attorney in subdivision (2) or a letter or
24 other documentation from the department indicating that the
25 appointed agents are temporarily licensed as agents of the
26 professional surety company for those lines of insurance.

1 "(4) An affidavit or certification in writing, under
2 oath, executed by a licensed agent of the professional surety
3 company who is the manager or an owner or president of a
4 corporation, company, partnership, or other entity that
5 represents the professional surety company, filed with the
6 clerk of the circuit court of each county in which the
7 professional surety company executes or becomes surety on
8 appearance bonds, stating the following:

9 "a. That all appearance bonds shall be executed in
10 the name of the professional surety company as surety by the
11 agents listed or appointed in the qualifying power of attorney
12 presented to the court or any other qualifying powers of
13 attorney filed with the circuit clerk of the county.

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

17 "c. That any agency, company, corporation, or other
18 entity that represents the professional surety company in the
19 county, has no owners or other persons having a direct or
20 indirect financial interest in such agency, company,
21 corporation, or other entity, that have been convicted of a
22 felony or a crime involving moral turpitude. If any person
23 having a direct or indirect financial interest in such agency,
24 company, corporation, or other entity has been convicted of a
25 felony or a crime involving moral turpitude, then the
26 affidavit or certification shall certify that there has been
27 such conviction, providing the name of the person convicted,

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

3 "d. That the professional surety company has no
4 knowledge of forfeitures that have been final for more than 30
5 days that have not been paid arising out of surety
6 undertaking, and that the professional surety company has no
7 petitions, motions, or other litigation matters pending.

8 "e. That no agents of the professional surety
9 company who have the authority to execute appearance bonds in
10 its behalf or any person having a financial interest, direct
11 or indirect, in the ownership or management of any agency,
12 company, corporation, or other entity that represents the
13 professional surety company in the execution of appearance
14 bonds, is an attorney, a judicial official, a person
15 authorized to accept an appearance bond, or an agent of an
16 attorney, judicial official, or person authorized to accept an
17 appearance bond.

18 "f. The names and addresses of all persons,
19 officers, employees, and agents of the agency, company,
20 corporation, or other entity that represents the professional
21 surety company becoming surety on appearance bonds who have a
22 direct or indirect financial interest in the agency, company,
23 corporation, or other entity representing the professional
24 surety company and the nature and extent of each interest.

25 "g. That those persons stated in this section have
26 not, within a period of two years, violated any provisions of

1 this chapter or any rules adopted by the Supreme Court of
2 Alabama in accordance with this chapter.

3 "(b) Each professional surety company shall be
4 required to do the following:

5 "(1) Place in escrow, in a federally insured,
6 interest bearing account, an amount equal to five percent of
7 the total outstanding liability in excess of five hundred
8 thousand dollars (\$500,000), up to a maximum escrowed amount
9 of two hundred thousand dollars (\$200,000).

10 "(2) File a liability report each month with the
11 circuit clerk of each county in which the person does business
12 setting forth the amount of outstanding liability and a
13 statement setting forth the amount escrowed. If, upon review
14 of the liability report, the circuit clerk determines that the
15 amount in escrow does not comply with the requirements of this
16 section, the certification of the person to make bail bonds
17 and charge therefor shall be suspended in that county."

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