

1 SB388  
2 200364-2  
3 By Senator Williams  
4 RFD: Finance and Taxation General Fund  
5 First Read: 07-MAY-19

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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 who is  
22 employed by a professional bail company to solicit and execute  
23 appearance bonds or actively seek bail bond business for or on  
24 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 who  
2 is employed by a professional surety company to solicit and  
3 execute appearance bonds or actively seek bail bond business  
4 for or on behalf of a professional surety company, including  
5 any individual who has a direct or indirect ownership interest  
6 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 individual may not hold himself or  
14 herself out to the public as a professional bondsman, or  
15 operate as a recovery agent, or use any term, title, or  
16 abbreviation that expresses, infers, or implies that the  
17 individual is licensed as a professional bondsman unless the  
18 individual at the time holds a valid license as a professional  
19 bondsman as provided in this act. All applicants shall pass an  
20 examination, unless exempted by this act, based on criteria  
21 established by the Alabama Professional Bail Bonding Board and  
22 established under Section 4 and shall comply with the  
23 continuing education requirements established by this act.

24           Section 4. (a) There is created the Alabama  
25 Professional Bail Bonding Board to administer and enforce this  
26 act. The board shall consist of all of the following members:

1           (1) Seven professional bondsmen, one from each of  
2 the seven congressional districts of the state, nominated by  
3 the Alabama Bail Bond Association and appointed by the  
4 Governor from a list of not more than four nominees for each  
5 position on the board. For the initial terms of office, the  
6 President of the Alabama Bail Bond Association shall be the  
7 professional bondsman member of the board who represents the  
8 congressional district in which he or she resides. The  
9 nominating and appointing authorities shall coordinate their  
10 nominations and appointments to ensure that one of the  
11 professional bondsman members is the owner of a professional  
12 bail bond company with at least 10 years of experience. Except  
13 as otherwise provided, no two professional bondsman members  
14 shall reside in the same congressional district. If no  
15 professional bondsman is available for nomination by the  
16 Alabama Bail Bond Association for a congressional district,  
17 the Alabama Bail Bond Association shall provide a list of four  
18 professional bondsman nominees from the state at large to the  
19 Governor for that congressional district, and the Governor  
20 shall appoint one of those nominees to fill that position on  
21 the board.

22           (2) One serving district or municipal court judge,  
23 nominated by the Alabama Bail Bond Association and appointed  
24 by the Governor from a list of four nominees.

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

1           (b) The appointments to the board shall be for terms  
2 of four years. The nominating and appointing authorities shall  
3 coordinate their nominations and appointments so that  
4 diversity of gender, race, and geographical areas is  
5 reflective of the makeup of this state. Vacancies shall be  
6 filled by appointment of the Governor for the unexpired  
7 portion of the term.

8           (c) The board, pursuant to the Alabama  
9 Administrative Procedure Act, Chapter 22 of Title 41, Code of  
10 Alabama 1975, shall adopt and enforce reasonable rules as the  
11 board determines necessary to effectively and efficiently  
12 carry out its official duty of licensing and regulating  
13 professional bail bond companies and professional bondsmen.

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

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

25           (b) Board members and employees shall be defended by  
26 the Attorney General in regard to any criminal or civil

1 litigation filed against them based on the performance of  
2 their official duties under this act.

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

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

11 (b) All application and license fees, penalties,  
12 fines, and any other fees or funds collected by the board  
13 under this act are to be deposited in this fund and used only  
14 to carry out the operations of the board.

15 (c) For the purpose of carrying out the objectives  
16 of this act and for the exercise of the powers granted in this  
17 act, the Alabama Professional Bail Bonding Board may direct  
18 the disbursement of the funds from the Alabama Bail Bond Board  
19 Fund necessary to cover reasonable and necessary operating  
20 costs and board member compensation and expenses as provided  
21 by this act, which shall be paid on warrant of the Comptroller  
22 upon certificate or voucher of the secretary of the board,  
23 approved by the president or vice president of the board.  
24 Funds may not be withdrawn or expended except as budgeted and  
25 allotted according to the provisions of Article 4 of Chapter 4  
26 of Title 41, Code of Alabama 1975.

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

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

8           (c) The board may hire personnel necessary or as  
9 advisable to carry out the purposes of this act.

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

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

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

19          Section 10. (a) Except as otherwise provided in this  
20 act, it shall be unlawful for any individual to act as a  
21 professional bondsman or recovery agent without first  
22 obtaining a license from the board, but a professional surety  
23 bondsman shall obtain a license from the Department of  
24 Insurance and shall comply with all licensing requirements  
25 issued by the Department of Insurance.

26          (b) A violation of subsection (a) is a Class A  
27 misdemeanor.

1 (c) Each individual licensed in accordance with this  
2 act shall designate to the board a physical address where his  
3 or her records are to be kept.

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

9 (1) His or her full name.

10 (2) His or her date of birth.

11 (3) All residences during the immediate past five  
12 years.

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

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

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

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

20 (2) Has not been declared by any court of competent  
21 jurisdiction incompetent by reason of mental defect or disease  
22 unless a court of competent jurisdiction has subsequently  
23 declared the applicant competent.

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

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

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

7           (2) The applicant may submit an application for  
8 reconsideration to the board within 30 days from the date of  
9 receipt of denial.

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

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

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

22           (1) Name.

23           (2) Photograph.

24           (3) Bondsman's license number.

25           (4) Expiration date of license.

1           (b) The identification card shall be carried on the  
2 individual of the licensee when engaged in the activities of  
3 the licensee.

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

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

12           (1) A violation of this act or any rule promulgated  
13 pursuant to this act.

14           (2) Fraud, deceit, or misrepresentation regarding an  
15 application or license.

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

19           (4) A conviction by a court of competent  
20 jurisdiction of a felony.

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

25           (6) The commission of any act which would have been  
26 cause for refusal to issue the license or identification card

1 had it existed and been known to the board at the time of  
2 issuance.

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

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

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

14 Section 19. (a) A professional bondsman or recovery  
15 agent commencing business in any judicial circuit in this  
16 state on and after June 1, 2020, shall attend a 12-hour  
17 instructional course conducted by an educational provider  
18 approved by the board and pass an examination approved by the  
19 board and administered by an educational provider approved by  
20 the board. Upon completion of the course and passage of the  
21 examination, the individual shall be awarded an initial  
22 examination certificate by the board, copies of which may be  
23 submitted to the presiding circuit judge, or other judicial  
24 authority, along with the other requirements set forth in  
25 Section 15-13-159 or Section 15-13-160, Code of Alabama 1975.  
26 Those professional bondsmen and recovery agents doing business

1 immediately prior to June 1, 2020, are exempt from the initial  
2 12-hour course and examination.

3 (b) Unless exempted pursuant to subsection (i), a  
4 professional bondsman or recovery agent making an annual  
5 filing in any circuit in this state pursuant to Section  
6 15-13-159 or Section 15-13-160, Code of Alabama 1975, on and  
7 after six months after the effective date of this act shall  
8 first complete eight hours of continuing education conducted  
9 by an educational provider approved by the board. A  
10 professional bail company owner, who is 55 years of age and  
11 has 10 years of experience in the profession, shall only be  
12 required to complete four hours of continuing education. The  
13 educational provider approved by the board shall provide the  
14 board with the name of all professional bondsmen or recovery  
15 agents completing eight hours of continuing education. Upon  
16 completion of the eight hours of continuing education, the  
17 individual shall request issuance of an annual continuing  
18 education certificate from the board, copies of which may be  
19 submitted to the presiding circuit judge along with the other  
20 requirements set forth in Section 15-13-159 or Section  
21 15-13-160, Code of Alabama 1975.

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

1 (d) A list of approved course providers shall be  
2 published on the website of the board.

3 (e) The cost of the 12-hour course shall be set by  
4 the approved course provider but shall not exceed five hundred  
5 dollars (\$500) per course. Upon completion of the 12-hour  
6 course, the approved course provider shall issue a 12-hour  
7 course completion certificate in a form approved by the board.  
8 This completion certificate must be presented to the board in  
9 order to take the introductory examination. A 12-hour course  
10 completion certificate shall be valid for a period of 12  
11 months.

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

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

1 to take the initial 12-hour course and examination to again  
2 become certified.

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

6 (1) Examination fee, a nonrefundable fee to be paid  
7 to take the examination and for the issuance of the initial  
8 examination certificate, per examination attempt: One hundred  
9 twenty-five dollars (\$125).

10 (2) Annual continuing education renewal certificate  
11 fee, to be paid to receive the annual continuing education  
12 certificate: Fifty dollars (\$50).

13 (i) Any professional bondsman who, on the effective  
14 date of this act, is 60 years of age and has 10 years of  
15 experience in the profession, shall be exempt from the  
16 continuing education requirements of this act.

17 (j) The board shall adopt rules necessary to carry  
18 out this section.

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

22 Section 21. The board shall be subject to the  
23 Alabama Sunset Law, Chapter 20 of Title 41, Code of Alabama  
24 1975, as an enumerated agency as provided in Section 41-20-3,  
25 Code of Alabama 1975, and shall have a termination date of  
26 October 1, 2023, and every four years thereafter, unless  
27 continued pursuant to the Alabama Sunset Law.

1                   Section 22. 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, now  
5                   appearing as Section 111.05 of the Official Recompilation of  
6                   the Constitution of Alabama of 1901, as amended, because the  
7                   bill defines a new crime or amends the definition of an  
8                   existing crime.

9                   Section 23. 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.